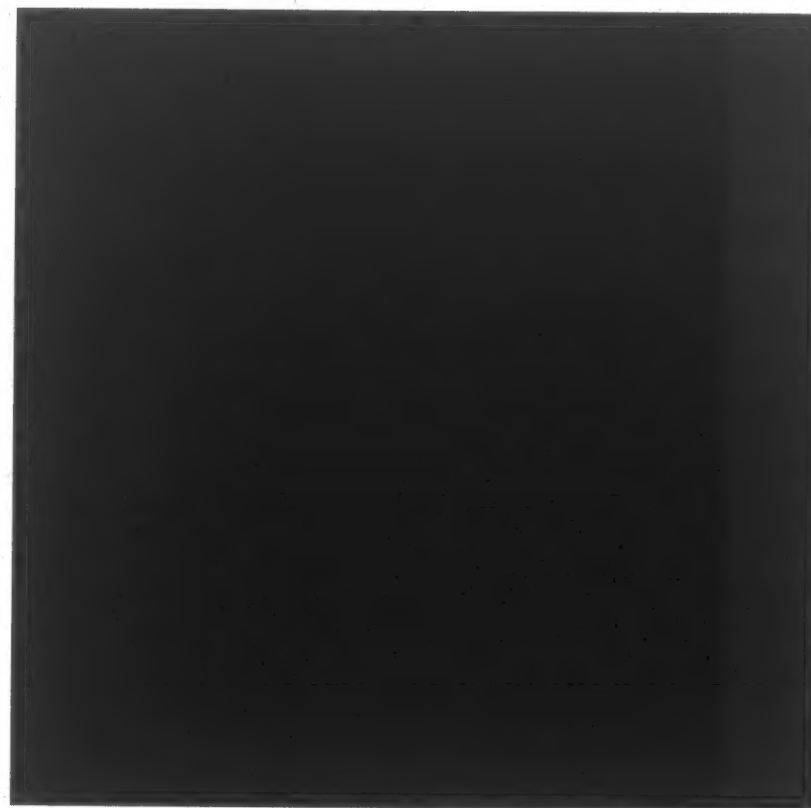
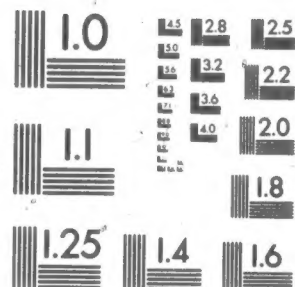
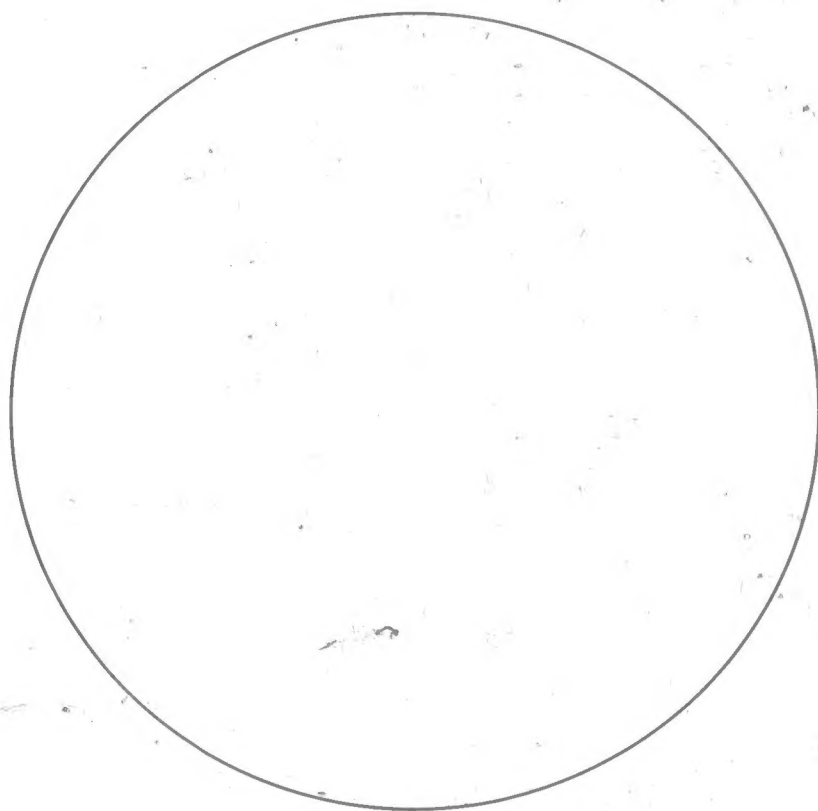
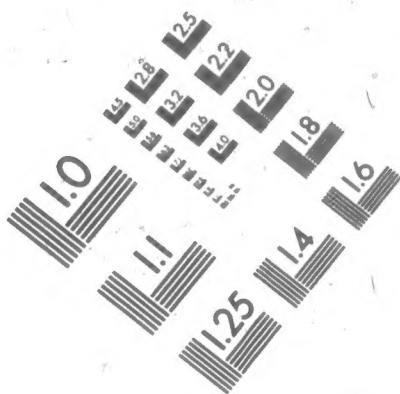
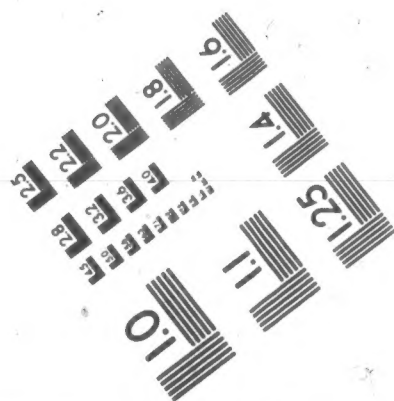
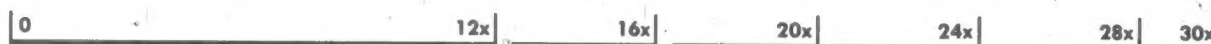


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APPLICATIONS FOR ENROLLMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

1898 - 1914

ROLL 387

CHEROKEE FREEDMEN R873 - R897

THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION

WASHINGTON: 1983

Cher Fr R 873

Trans. from Cher Fr D 367

Cher Fr R 873

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 7, 1901.

In the matter of the application of William Lynch for the enrollment of himself and three children as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A. William Lynch.
Q How old are you Mr. Lynch? A. 32 years old.
Q What is your postoffice address? A. Spavinaw.
Q What district do you live in? A. Saline.
Q Do you apply to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Have you ever applied to any other nation or tribe? A. No sir.
Q Have you drawn money from any other nation or tribe? A. No sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A. Yes, sir.
Q Is your name on the rolls of the Cherokee Nation? A. Yes, sir.
Q Who do you want to enroll besides yourself? A. Three children.
Q Are you married? A. Yes, sir.
Q What is the name of your wife? A. Mary Lynch.
Q Is she a citizen? A. No sir.
Q What are the names of your children? A. Maria.
Q How old is Maria? A. 10 years old.
Q What is the name of the next child? A. William, Jr.
Q How old is William? A. Eight.
Q The name of the next one? A. Corinne.
Q How old is she? A. She's three months old.
Q Is that all the children? A. That is all.
Q Have you any certificate of your marriage to your wife? A. No sir.
Q Were you ever married before you married her? A. Yes, sir.
Q Is Mary Lynch the mother of these children? A. He is the mother of the youngest one.
Q What was your first wife's name? A. Alice.
Q Was she a citizen? A. Yes sir.
Q What was her name before you married her? A. Walker; Alice Blythe she went by.
Q Is she living? A. Yes sir.
Q Were you divorced from her? A. Yes sir.
Q You say she was a citizen? A. Yes, sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant is found on page 645, No. 656, Wm. Lynch, Saline District.

- Q Is Simon Lynch any relation to you? A. He is my father.
Q Is he living? A. Yes, sir.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

- Q Did you draw strip money? A. Yes sir.

The Kerns Clifton Roll of the freedmen of the Cherokee Nation examined and the names of the applicants are found thereon as follows:

- Page 17, No. 425, William Lynch, Saline District
Page 17, No. 426, Maria Lynch, Saline District
Page 17, No. 427, Willie Lynch, Saline District.

2-W. E.

- Q Was your first wife's name on the rbl of 1880? A. I don't know whether it is or not.
- Q What was her father's name? A. I don't know her father.
- Q Do you know her mother? A. Yes sir.
- Q What was her name? A. Abbie Blythe.
- Q Is she living? A. Yes sir.
- Q Do you know Monroe Blythe? A. Yes, sir.
- Q Is he any relation to your wife? A. No sir.
- Q Were you married to her? A. Yes sir.
- Q Have you got any proof of your marriage? A. Yes, sir.
- Q Where is it? A. There are people here that know it. Ike Martin.

ISAAC MARTIN, being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A. Isaac Martin.
- Q How old are you? A. 29.
- Q What is your post office? A. Vinita.
- Q Are you a Freedman citizen of the Cherokee nation? A. Yes sir.
- Q Do you know William Lynch? A. Yes sir.
- Q Did you know his first wife? A. Yes sir.
- Q What was her name? A. Alice Blythe.
- Q Were they married or not? A. They were.
- Q How do you know it? A. The way I know it is by the people; I never saw them married.
- Q Did they live together as man and wife? A. Yes sir, I have been to the house.
- Q How long did they live together as man and wife? A. About seven or eight years.
- Q Did they have any children? A. Yes sir, a couple.
- Q What are their names? A. I don't know their names; they had a boy and a girl.
- Q Born to them while they were living together as man and wife?
- A Yes sir.

Applicant recalled-

- Q You say you were divorced from your first wife? A. Yes sir.
- Q Have you any proof of the divorce? A. Judge Buffington, at Saline Court House.
- Q Were you married to your second wife? A. Yes, sir.
- Q Got any proof of that? A. The Elder is right here in town that married me.
- Q These children all living? A. Yes sir.
- Q Have you always lived in the Cherokee Nation? A. All my life.
- Q Never lived out of it? A. No sir.
- Q These children born and raised in the Cherokee Nation?
- A Yes sir.
- Q What was your present wife's name before you married her?
- A. Teener.

William Lynch applies for the enrollment of himself and three children, Maria, William, Jr., and Corinne. His name is found upon the authenticated roll of 1880 and upon the Kerns Clifton Pay Roll, and is duly identified as the applicant. He avers that he was first married to one Alice Blythe, from whom he was divorced, but presents no certificate of divorce. He makes satisfactory proof of his marriage to said Alice Blythe, by whom he had two children, Maria and William, Jr., and their names are found upon the Kerns Clifton Roll. He avers that since the divorce from his first wife, Alice, he has since married

W. L. --3

one Mary Teener, a non citizen, by whom he has one child named Corinne, three months of age, but presents no proof of marriage. Parties are all duly identified and make satisfactory proof of residence. The said William Lynch and his two children, Maria and William, Jr., will be listed for enrollment as Cherokee Freedmen; and his youngest child, Corinne, will be listed for enrollment as a Cherokee Freedman when he files with this Commission satisfactory proof of his divorce from his former wife, and satisfactory proof of his marriage to his present wife, and satisfactory proof of birth of said Corinne.

The undersigned, being duly sworn, states that as stenographer to the Commission to the five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger

Subscribed and sworn to before me this 7th day of May, 1901.

(Signed) T. B. Needles
Commissioner

Lucy M. Bowman being duly sworn, states that as stenographer to the Commissioner to the five Civilized Tribes she made the above and foregoing copy and that same is a true and complete copy of the original transcript.

Lucy M. Bowman

Subscribed and sworn to before me this December 9, 1905.

Myron White
Notary Public.

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J. I. 3 67

COMMISSION TO THE FIVE C. ALIZED TAIRES
FILED
MAY 23 1901

ACTING SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., MAY 21st, 1901.

In the matter of the application of Alice Lynch for the enrollment of herself and four children as Cherokee Freedmen; said Lynch being sworn and examined by Commissioner T. B. Neelken, testified as follows:

- Q What is your name? A Alice Lynch.
Q How old are you? A I am about 30 I guess.
Q What is your post office address? A Spavinaw.
Q What district do you live in? A Salina.
Q Do you want to enroll as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Just me and my children.
Q How many children? A Five at home; I haven't five at home with my oldest daughter is married.
Q You have four children then? A Yes, sir.
Q Give me the name of your oldest one at home? A Lovely Eaton.
Q How old is she? A 14.
Q What is the next child's name? A Early Lynch.
Q How old is Early? A He is five years old.
Q What is the next child's name? A Calvin.
Q How old is Calvin? A He is three years old.
Q Have you got one younger than that? A Yes, sir.
Q What is its name? A Eddie Lynch.
Q How old is Eddie? A Five months old.
Q What is the name of your husband? A My husband was William Lynch.
Q Are you living with him now? A No, sir.
Q Separated from him? A Yes, sir.
Q Are you a recognized citizen of the Cherokee Nation?
A I have always lived here.
Q Is your name on the rolls? A I suppose so, it is on some of them.
Q Is it on the roll of 1880? A I could not tell you.
Q What was your father's name? A I don't know anything about my father.
Q What was your mother's name? A Abbie Blythe.
Q Is she living? A Yes, sir.
Q You say you don't know whether your name is on the roll of 1880 or not? A No, sir.
Q Is it on any of the rolls you know of of the Cherokee Nation?
A I suppose so, I drew money.
Q Did you draw what is known as the strip money?
A Yes, sir.
Q Were you ever married before you married Lynch? A Yes, sir.
Q What was your husband's name then? A Sam Rogers.
Q Is he living? A Yes, sir.
Q Have you ever been married to any one else? A No, sir.
Q When were you married to Sam Rogers? A I don't know, it has been so long.
Q Well was your name Rogers in 1880, do you know?
A No, sir, I don't know anything about that time.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and Applicant's name not found thereon.

- Q You drew your money then under the name of Blythe? A Yes, sir.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and Applicant's name identified thereon, page 138, #3902, Dallas Blye, Coowascoowee District.

- Q You were called Dallas were you? A Yes, sir.
Q And you enrolled by the name of your mother? A Yes, sir.
Q Did you draw for Lovely? A Yes, sir.
Q Under what name did you draw, Love Lynch, Love Blythe, or Love Eaton? A Lovely Eaton.

Alice Lynch, et al.--2.

Q Where were you born? A I was born in the Cherokee Nation?
Q Have you lived in the Cherokee Nation all your life? A Yes, sir.
Q You are the daughter of Abbie Blythe? A Yes, sir.
Q Do you know anything about your rights as to why you are not on the roll of 1880, or what rights you have as a Cherokee Freedman? A I can't tell why I ain't on the roll.
Q Well, your citizenship would probably follow your mother's would not it? A Yes, sir.
Q Why didn't you come with your mother? A I was here.
Q Why didn't you present yourself at the same time? A Why I didn't she stayed here saying she had some children and while I was gone she enrolled.

COM'R NEEDLES:--Alice Lynch applies for the enrollment of herself and four children, to-wit: Lovely Eaton, Early, Calvin and Eddie Lynch. Her name cannot be found upon the authenticated roll of 1880, but she is identified upon the Kerns-Clifton roll. The names of her children cannot be identified on any roll. She avers that she is the daughter of Abbie Blye. She is not the wife of one William Lynch from whom she is separated. She makes satisfactory proof as to residence. It is presumed that her citizenship will be governed by the rights of her mother, Abbie Blythe, who is enrolled on D. Card #257, and the testimony taken in said case will be made a part of the record in the case of the applicant and a copy of the same will be filed with the testimony now taken. It will be necessary for her to make satisfactory proof of birth of her four children, name of them being identified upon any of the rolls. Consequently Alice Lynch and her four children, as enumerated herein, will be listed for enrollment as Cherokee Freedmen upon a doubtful card awaiting further consideration of the Commission.

SUPPLEMENTAL QUESTIONS BY L. B. BELL, Cherokee Representative:

Q Where do you live now? A I live on the river.
Q Well there is a whole lot of rivers in the world? A On Grand river.
Q In the Cherokee Nation? A Yes, sir.
Q How long have you been living there? A I don't know how long.
Q Well, 25 years? A Yes, sir, but not right at that place I am living now.
Q Where have you been living then? A I have been living right up and down Grand river.
Q Never lived out of the Cherokee Nation at all? A No, sir.
Q No time? A No, sir.
Q Born here? A Yes, sir.
Q whereabouts do you think? A I don't know where I was born.
Q Where do you first recollect being? A Up the river there near Oakflat.
Q Is that in the Cherokee Nation? A Yes, sir.
Q What district? A Delaware I think; it is up there close to that old Lady Daniels' place on the river there.

---oooOOooo---
J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.
Subscribed and sworn to before me this 23d day of May, 1901.

A. H. Rosson

Commissioner.

VB.

J.D. 367

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 21 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date *May 21, 1901*
 Post Office *Spavinaw St.*
 District *Saline*

1. Name _____ Age _____
 Owner's name _____ Citizenship _____
 Year _____ Page _____ No. _____ District _____

Parents:
 Father *Robert Thomas* Citizenship _____
 Mother _____ Citizenship _____

1. Name of wife *Lucy Lynch* Age *30*
 Owner's name _____ Citizenship _____
 Year *1880* Page *158* No. *3902* District *CCV*

Parents:
 Father _____ Citizenship _____
 Mother *Mable Rhyne* Citizenship _____

Names of Children:

2.	<i>Lovely</i>	Year	Page	No.	Dist.	14 5 5
3.	<i>Carly Lynch</i>	Year	Page	No.	Dist.	
4.	<i>Calvin</i>	Year	Page	No.	Dist.	
5.	<i>Eddie</i>	Year	Page	No.	Dist.	
7.		Year	Page	No.	Dist.	
8.		Year	Page	No.	Dist.	
9.		Year	Page	No.	Dist.	
10.		Year	Page	No.	Dist.	
11.		Year	Page	No.	Dist.	
12.		Year	Page	No.	Dist.	

Application made by _____ Stenographer *J. C. Brown*

On K. L. Roll as Dallas Blye

2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

MAY 21 1901

X Ref. W 257

Encapsulated and sworn to before me this August 14th, 1901.

Commissioner.

Subs of the testimony and blood of the in the above case.
oath and sworn to in a true and correct copy of the original plan-
the Commission to the five six
1. O. Bureau, before said
not as a stenographer, to

DEPARTMENT OF THE
COMMISSION TO THE FIVE
AUG 19 1901

To be filed with case of Alice Lynch, et al., et al., C. P.-D. 367.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 11, 1901.

In the matter of the application of Abbie Bly for the enrollment of herself and two children as Cherokee freedmen.

Abbie Bly, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Abbie Bly.
Q What is your age? A I don't know my age.
Q About how old are you? A I can't tell you, my mistress is sitting here, she can tell you better than I can; I don't know my age.
Q Well, what is your post office? A Spavinaw.
Q What district do you live in? A I live in Galine.
Q Do you want to be enrolled as a Cherokee freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A Two children; I have six but they are all grown but two.
Q What are the names of the children? A Minnie and Calis.
Q How old is Minnie? A I have her age here in my pocket (hands Commissioner paper.)
Commissioner: Minnie Bly, 16; Calis, 12.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee freedman? A Well, I don't know whether they recognized me or not.
Q Is your name on the roll of 1880, A No, sir, I think not.
Q Did you draw strip money? A Yes, sir.

The 1880 Authenticated roll of Cherokee Freedmen examined and the applicants not identified thereon.

The 1896 census roll of Cherokee Freedmen examined and the applicants not identified thereon.

The Kern-Clifton roll examined and the applicants identified thereon as follows:

Abbie Bly on page 158, No. 3897, Cooweescoowee District, as Abbie Blye.

Minnie Bly on page 158, No. 3899, Cooweescoowee District, as Minnie Blye.

Calis Bly on page 158, No. 3900, Cooweescoowee District, as Callus Blye.

- Q Did you ever apply to any other Nation to be enrolled besides the Cherokee Nation? A No, sir.
Q Where you a slave? A Yes, sir.
Q What was your owner's name? A Bly.
Q What was his first name, his given name? A Jim Bly.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q An Indian? A Yes, sir.
Q Were you taken out of the Cherokee Nation during the war between the United States and the Confederacy? A Yes, sir, I went out.
Q Where did you go? A I went to the State.
Q What State? A Well I don't know what state, I just went into the state.
Q North or South? A I went North.
Q To Kansas I expect? A Yes, sir, I expect so.
Q Well, when did you come back from Kansas to the Cherokee Nation? A I came back in the fall of '66.
Q Have you been living here ever since, in the Cherokee Nation? A Yes, sir.
Q Do you know why your name isn't on the roll of 1880? A No, sir, only just because they wouldn't put me there is all I know.
Q You are sure you came back in '66? A Yes sir.
Q Been living here ever since? A Yes, sir.
BY W. W. HASTINGS, Cherokee Attorney: You belonged to Jim Bly before the war? A Yes, sir.

A. B.--2.

Q. He sold you to a man in Missouri? A. No, he didn't he never sold me to no man in Missouri.

Q. Before the war? A. No, he didn't.

Q. You lived in Missouri? A. Well he never sold me to no man and I never lived there that I know of.

Q. You lived before the war in Missouri? A. No, sir.

Q. Did you live there during the war in Missouri? A. Well My mistress is back there, you can call her, I was too young to tell anything about that, she is here to answer for that.

Q. How old are you now? A. I can't tell you my age, she will answer for that, I told you as far as I could.

Q. You were grown when the war came up? A. I was a nurse in the house.

Q. Who did you come back to the Cherokee Nation with after the war? A. I came back with a white family.

Q. What white family? A. With a family by the name of Dodson, or some such as that.

Q. You don't know one year from another? A. No, sir, don't know one year from another only when I hear it.

Q. Have you heard what year this year is? A. Well I expect I have.

Q. What is it? A. I can't remember, I guess I have heard what year it is if I could remember it.

Q. Do you know any other year except '66? A. Yes, when I hear them called.

Q. What other year have you heard called? A. I am not supposed to tell you because I didn't keep no record of it.

Q. You don't know a single one? A. No, sir, I don't.

Q. Who told you to say '66 when you came in here? A. Nobody only myself, I know that is what the people said when the party came here at that time.

Q. You never heard anybody call a single date since then? A. Yes, I guess I could if I could read and write like you can, I guess I could remember something about it.

Q. A man by the name of Dodson brought you? A. Yes, by the name of Dodson.

Q. Did you come on this Frisco train? A. No, sir, there wasn't any trains here, you know there wasn't any trains here.

Q. Where did you come from? A. I done said where I come from as near as I can.

Q. Where is that? A. I told you I come from Kansas.

Q. What place in Kansas? A. I don't know what place.

Q. You don't know anything about that? A. No, I told you just as near as I can tell you now.

Q. How did you come, in a wagon? A. Yes, sir, come in a wagon.

Q. Anybody else besides the man come with you? A. Yes, sir, his wife was along.

Q. What was her name? A. I never asked her name only I reckon her name was Mrs. Dodson, that was her husband's name.

Q. Where did you come to in the Cherokee Nation? A. Why we camped up on Grand river is all I can tell you, I don't know what part, but I never thought I would ever have to give any record of it, I never thought any more of it.

Q. You were not married then? A. No, sir, I wasn't.

Q. How long did you camp up there with them? A. Well, I don't know how long I camped.

Q. A few weeks or a few months? A. I don't know, because it has been so long, I can't tell you how long I camped.

Q. Near what point, what town or place was that? A. There wasn't no town.

Q. Just camped on the river? A. Yes, sir.

Q. Anybody live around there? A. Well, I suppose there was.

Q. You never knew any of them? A. No, sir, I didn't.

Q. Well, where did you go from there? A. On Grand river down here back on the river.

Q. Well, into what neighborhood? A. Down here close to the Island Ford, they call it, or Tanyard ford, or something.

A. B. --3.

Q About how many years have you been down there? A I can't tell you how many.

Q Three or four? A No, I have been there for years, ever since I came here.

Q Did you stay as much as a year up above here? A Well now I have answered all the questions I can answer you.

Q I mean in that camp? A Did I stay a year? I told you I don't know how long I stayed, I camped there, I don't know whether it was a year or not because I didn't keep any record of it.

Q Was it longer than a month? A I suppose it was longer than a month, I know I was there quite a little while.

Q What were the people doing while you were camping up there, Dodson and his wife? A Nothing only walking around, camping up there, they were moving.

Q You don't know where they got provisions? A I got it from them.

Q You don't know where they got it? A No, I don't bought it I reckon.

Q Any other colored people with you? A No, sir.

Q What became of these people? A Now I can't tell you, I don't know where they went.

Q You don't have any idea how long you stayed there? A No, sir.

Q You were married; you have been married? A Yes, sir.

Q What was your husband's name? A His name was Hilderbrand.

Q And you and him were married before then? A No, sir, I have answered you all the questions I can answer you, I have done answered all that is required I think.

Q What is your oldest child's name? A She will tell it in when she comes in.

Q Don't you know?

Commissioner: Tell her name.

A Her name is Anna.

Mr. Hastings: Where was Anna born? A She was born the year after peace was made.

Q Did you have Anna along with you? A She was a little bit of a baby; I brought her here a baby.

Q You brought her here a baby? A Yes, sir.

Q Your husband wasn't along you state? A No, I didn't have any.

Q Where was Alice born; did you have a child named Alice?

A Alice was born in the Nation.

Q I say where was Alice born? A Born in the Nation, I can't tell you.

Q What part of the Nation? A I don't know, I have told you in the Nation, I don't know what you want to ask people so many questions for when they have told you.

Q You don't know what place? A No, I don't remember what place she was born in the Nation.

Q Was she born up there where you were camping? A No, sir, she wasn't born in the camp.

Q You don't know what place, what house, with whom you were living?

A I have done answered you all I can answer you.

Q You don't know? A I didn't know I have to tell you everywhere they were born at.

Commissioner: Where was Alice born; you know about where she was born? A Well, Yes, sir, she was born on the river in an old house there.

Mr. Hastings: In what settlement was that; who were your neighbors?

A Well, I had several neighbors.

Q At the time Alice was born? A Part of them is dead and the others was young.

Q Then that are living? A Then that are living are so young they can't tell anything about it.

Q What are their names? A Aunt Nancy was one of them, and Aunt Charlotte was another.

A. B.--4.

Q What were their other names? A Aunt Nancy Lynch and Aunt Charlotte Adams.

Q You have been living down there on the river ever since, have you? A Yes, sir.

Q Near Island Ford or Lynch's Prairie; you are living there now?

A Yes, sir.

Commissioner: Have you got any witnesses? A Yes, sir, there is my mistress sitting there.

JAMINA BLY, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Jamina Bly.

Q About what is your age? A 68.

Q What is your post office? A Vinita.

Q Are you a Cherokee citizen? A Yes, sir, by blood.

Q Do you know Abbie Bly? A Yes, sir.

Q About how old is she? A She was about two or three years old, I don't know which, when I married in '49; she was just a little girl.

Commissioner: About 56 years old.

Q Was she a slave? A Yes, sir.

Q Who did she belong to? A She belonged to Mrs. Tucker, Polly Tucker, first.

Q Did she ever belong to your family? A Yes, sir, her mother belonged to Pollie Tucker and afterwards we bought her from Polly Tucker's daughter, Mr. Bly did.

Q Mrs. Bly, did Abbie go out of the Territory during the war? A We all moved out.

Q North? A We moved out just across over the line into Missouri.

Q Abbie went along with you? A Yes, sir, Abbie was with us.

Q When did Abbie return? A She came home in '65 just over in the state of Missouri and then I don't know anything more of her till I found her in Vinita in '79; that was the time my oldest daughter died in '79, and she came to us, same in, that is the reason I know it was '79 that she came back in, account of the death of my daughter; she was in the Nation at that time but I don't know how long before.

Q You don't know then how soon she returned to the Nation after you saw her in Missouri? A No, sir, she was trying at that time to make her way back.

Q That was in '65? A That was in '65.

Q Over in Newton County, Missouri, she was trying to make her way back? A She was trying to make her way to the Nation at that time and we were not coming back and she went on and I don't know where she went and I don't know what became of her until I saw her here in '79; she was living over here in this neighborhood that she spoke of, down on the river.

Q She has been living then in the Cherokee Nation since that time?

A I knew she has been living in the Cherokee Nation ever since '79 for I have seen her occasionally, once or twice a year.

Q But where she was from '65 to '79 you don't know? A No, sir.

Mr. Hastings: Your husband was named Jim Bly? A Yes, sir.

Q Is he alive? A I don't know whether he is or not, he has been dead to me ever since '79; I have never tried to force myself in regard to him; he outedly told me 'I can't support you all and I will not do it and you can starve to death for all I care.'

Q Well, as we want is the facts. A You might have known if Mr. Bly had been living and had been living with me, he would have been living with me.

Q Isn't it a matter of fact that Mr. Bly sold this girl out to a man in Missouri before the war came up? A No, sir, he didn't; if he swore that he is mistaken.

Q He didn't sell her before the war came up? A If he swore that he is mistaken; he made a mistake if he swore that.

A. B.--5.

Q You know he owned her at the time the war came up?

A I know Mr. Hastings he owned her in '65 for Mrs. Marks was my baby in '65 and this was the nurse for Mrs. Marks.

Q Where did you live at that time? A Mr. Bly had gone over in Missouri to settle up his father's business that he died and left unfinished over there, and when we were there the war came up.

Q When did you go over to Missouri? A Before the war.

Q How long? A I didn't keep any dates.

Q About how many years? A If You will let me I will go and get my family record and let you examine it.

Q I don't care if you get forty of them at home, I just want you to remember it? I don't care for the month and week and day but I want to know how long to the best of your recollection before the war came up you went over there? A We went over there temporarily, we didn't withdraw from the Nation to go over there.

Q About how long were you over there temporarily before the war came up? A We were over there two or three years, I don't know, I am not ~~quite~~ positive.

Q To the best of your recollection? (No response.)

CAP HICKS, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Filmore Hicks.

Q What is your age? A 53.

Q Are you a citizen of the Cherokee Nation? A Yes, sir.

Q By blood? A Yes, sir.

Q Do you know Abbie Bly, the applicant? A Yes, sir.

Q Do you know where she was in '66? A No, sir.

Q When did you know her? A I have known her about 25 or 26 years.

Q Did you ever become acquainted with her till after '66?

A No, sir.

Q Do you know whether she was a slave or not? A No, sir.

Q Do you know when she returned to the Cherokee Nation?

A No, sir.

Mr. Hastings: You live down here near the Lynch settlement?

A I did, yes, sir.

Q You lived there from '65 on up to when did you move to Vinita?

A Just this last fall; just one or two years I lived there on Rock Creek.

Q You have known this woman for 25 or 26 years? A Yes, sir, to the best of my recollection.

Q How far did she live from you down in that settlement when you first knew her? A About four miles.

Q That is when she first came there to your recollection

A That is the first I ever seen her and knew of her.

COMMISSIONER: Abbie Bly applies for the enrollment of herself and two children, Minnie and Calis. From an examination of the authenticated roll of 1880, her name is not found thereon, nor the census roll of 1896, but her name is found upon the Kerns-Clifton roll. The names of her children, Minnie and Calis, are found upon the Kerns-Clifton roll. She makes satisfactory proof of residence, and will be listed for enrollment as a Cherokee Freedman upon a doubtful card for the further consideration of the Commission. When the Commission arrives at a conclusion in her case, she will be notified by mail.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Bruce C. Jones.

Sworn to and subscribed before me this 14th of May, 1901.

(Signed) T. B. Needles, Commissioner.

A. B.--6.

J. O. Rosson, being duly sworn, deposes that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in the above case.

J. O. Rosson

subscribed and sworn to before me this August 14th, 1901.

[Signature]

Commissioner.

Q On Grand River in the Cherokee Nation.

A The first time you saw her was in 1863. Yes, sir, in time I seen her.

Q Was she lived here continuously ever since? Yes, sir, ever in the Cherokee Nation. Yes, sir.

Q Where was she in 1863? On Grand River with some white people the way? No, sir, I don't know.

Q Was Appie Blaine one of the Cherokee Nation before 1863, during the time he was living? He was briefly wife.

Q About 1863 she passed for a Cherokee Nation? Yes, sir. Was she a slave? Yes, sir.

Q How long have you known her? I have known her a long time. Do you know Appie Blaine, the subject here? Yes, sir.

Q The son's recognized citizen of the Cherokee Nation? Yes, sir. How old was you? A 10.

Q What is your name? A Jim Viper.

A Witness for the subject, testified to follow:

ALL WITNESSES called and examined by Commissioner L. B. Needles as a

subject and the respondent for the Cherokee Nation present

Appie Blaine, Cherokee slave, born 1844, died 1894.

SUBMITTANT RESIDENCE: Cherokee Nation, 1894.

ADMITTANCE TO THE CHEROKEE NATION, 1894.

COMMISSION TO THE CHEROKEE NATION, 1894.

DEPARTMENT OF THE INTERIOR

To be filed with case of Viper, et al., C. B.-D. 1894.

To be filed with case of *Allen Lynch, et al.*, C. F.-D. #567.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., May 15th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of
Abbie Blythe, Cherokee Freedman, Serial Card #287.

Applicant and the Representative for the Cherokee Nation present
JIM ALBERTY, called and sworn by Commissioner T. B. Needles as a
witness for the applicant, testified as follows:

- Q What is your name? A Jim Alberty.
Q How old are you? A 70.
Q What is your post office address? A Chouteau.
Q Are you a recognized citizen of the Cherokee Nation?
A I cannot tell you, I drew the money.
Q Do you know Abbie Blythe, the applicant here? A Yes sir.
Q How long have you known her? A I have known her a long time,
some before the war.
Q Was she a slave? A Yes, sir.
Q Whom did she belong to? A Jim Blynthe.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Was he an Indian? A He was pretty white.
Q Was Abbie Blythe out of the Cherokee Nation before 1866, during
the war? A No, sir,--I don't know.
Q Where was she in 1866? A On Grand river with some white people
in camps.
Q In the Cherokee Nation? A Yes, sir.
Q Has she lived here continuously ever since? A Yes, sir, every
time I seen her.
Q The first time you saw her was in 1866? A Yes, sir in
camps.
Q Where? A On Grand river in the Cherokee Nation.

BY L. B. BELL, Cherokee Representative.

- Q Whereabouts on Grand river did you see her? A Some where near
Carey's Ferry.
Q How long did you stay with her there? A I didn't stay with her,
I just passed by there and she asked me the way to go to Mrs. Blythe.
Q And you just passed on and didn't see her any more? A No, sir.
Q What was you doing there? A I was just passing by there that
was all.

Chas. von Weise, being sworn states that as stenographer to the
Commission to the Five Civilized Tribes he reported in full all the
proceedings in the above cause and that the foregoing is a full,
true and correct transcript of his stenographic notes thereof.

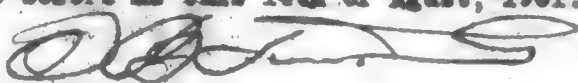
(Signed) Chas. von Weise.

Subscribed and sworn to before me this 20th of May, 1901, at
Vinita, I. T.

(Signed) T. B. Needles, Commissioner.

---ooo000ooo---
J. O. Rosson, being duly sworn, says that as stenographer to
the Commission to the Five Civilized Tribes, he made the foregoing
copy and that same is a true and complete copy of the original tran-
script of the testimony and proceedings in the above case.

Subscribed and sworn to before me this 14th of August, 1901.



Commissioner.

INDIAN TERRITORY.
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901.

Given under my hand this.....
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
..... day of....., 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A. D. 1901

Subscribed and sworn to before me
this..... day of..... A. D. 1901.

60...

THE FIVE CIVILIZED TRIBES

FILED
27 1901

ACTING CHAIRMAN

11 1901

NOTICE!

IN THE MATTER OF The application of Alice Lynch
for enrollment as a Cherokee Freedman:

Case No. F. D. 367

To Alice Lynch, Spavinaw, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit Oct. 1st ^{at 8 o'clock A. M.}
A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 11th day of Sept., 1901.

L B Bell

Attorneys for the Cherokee Nation.

AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss

In the matter of the application of Alice
Lynch for enrollment as a Cherokee Freedman.

No. F. D. 367

Henry Pack, of lawful age, being duly sworn on
oath states that on the 11th day of September, A. D., 1901, he registered
to Alice Lynch whose postoffice is Spavinaw
Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto
attaches the receipt of the Postmaster at Fort Gibson Indian Territory;
and that on the 27th day of September, 1901, he received the return
card which is hereto attached, signed by the said Alice Lynch, showing
that he had received said notice.

Subscribed and sworn to before me on this the 27th day of Sept, A. D. 1901.

Henry Pack
J. C. Starr

Notary Public.

noted and each to perform the first October Year, 1901.

name of the
 telephone is a fine one, and I am
 not at all sure that I have not
 been the only one to have it. I
 have been the only one to have it
 and I am not at all sure that I
 have not been the only one to have it.

[illegible][illegible]

Q 720367

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Supl.C.F.-D.#257.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 2d, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
Abbie Blythe as a Cherokee Freedman, introduced on part of the Cherokee Nation:

APPEARANCES:

Mr. I. F. Bledsoe, Agent for applicant;
Mr. J. S. Davenport, of Counsel for Cherokee Nation.

JAMES C. BLYTHE, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name, Mr. Blythe? A James C. Blythe.
Q How old are you? A Well, according to the record I was born in 1824, July 7th.
Q What is your post office? A Bartlesville.
Q How long have you lived in the Cherokee Nation? A I have been principally been raised here.
Q Pretty much all your life? A Yes, sir.
Q Were you born here in the Nation? A I was born in the old Nation.
Q Came here with the Cherokees when they moved to this country?
A Yes, sir, I moved here with the Cherokees when they moved here.
MR. DAVENPORT: Did you own any slaves prior to the breaking out of the Civil War, Mr. Blythe? A Yes, sir.
Q Where were you living at the time the war broke out? A I was living in McDonald County.
Q What State? A Missouri.
Q About how many years had you been over there in McDonald County, Missouri, before the breaking out of the war? A I think I moved there in '56, to the best of my knowledge it was in '56.
Q Well, did you have any slaves over there with the from the time you moved there up to the time the war broke out? A Yes, I had one slave that I moved up to that place.
Q Did you have a slave when you moved there by the name of Abbie?
A Yes, sir.
Q You owned a slave prior to the breaking out of the war?
A Yes, sir, I bought one after I moved to that place, I don't know it must have been a year or two afterwards, after I moved there.
Q A year or two after you moved to Missouri you bought this slave Abbie? A Yes, sir.
Q Now what became of Abbie; did you continue to own her up until the time she was freed? A I sold her during the war.
Q Who did you sell her to? A I sold her to Jim Lamance, he was Clerk of the Court there.
Q What became of him? A I expect he is dead now.
Q What was his post office, Mr. Blythe? A At that time Pineville, Missouri, McDonald County.
Q Did you know any man by the name of Dodson who lived near you in McDonald County, Missouri? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A No, sir, he never came here that I know of.
Q Where were you living when the war closed? A My residence was at the same place.
Q Your residence was at Enterprise? A Yes, sir.
Q You had enlisted during the war; was in service? A Yes, sir, I was a soldier during the war.
Q Well, after you sold Abbie when did you next see her and where was she when you saw her? A I was at Enterprise, McDonald County.

- Q About what year was that, if you remember? A Best of my recollection it was between 1862 and '3.
- Q I am speaking now not when you sold her, when you saw her after you sold her? A Well, it was the spring of '66, she came to my residence there and wanted to come back as before and I was broke up and told her she was as free as I was and look out for herself.
- Q When did you move back to the Cherokee Nation after the war?
- A I moved back in '68.
- Q Where did you locate when you came back? A Tahlequah.
- Q How long did you live at Tahlequah before you left there, Mr. Blythe, about how many years? A I lived there from '68 until '71.
- Q When you left there in 1871 to what point did you come?
- A I come to this place.
- Q From the time you moved from Missouri until you came to Vinita had you seen Abbie, this slave you had owned prior to the war?
- A No, sir, I never had saw her.
- Q Did you see her after you moved to Vinita? A Yes, I saw her.
- Q When was it with reference to the time you moved to Vinita and where did you see her? A She came to me at this place and she said she was hunting me up to find the best place to locate and I told her how she had a right to locate there and I told her to pick on a place and go to work, that I supposed it would be all right, and she located out here east of Little Cabin.
- Q Did you have any conversation with her as to where she had been?
- A I asked her the question where she had been and she said she had been up in Missouri and I said where did you come from here; I said did you just come in and she said yes; and I said where did you come from and she said Granby.
- Q Now, is there anything that fixes the time with reference to Vinita after you came here? A It was after the railroad came here that I came to this place.
- Q Which road do you have reference to? A This Texas road.
- Q M. K. & T.? A Yes, sir, the road wasn't put there at that time.
- Q You have known her since that time? A Yes, sir, she has been here ever since; I see her here frequently, at least she told me she was living out there.
- Q From whom did you buy this Abbie if you remember? A I bought her from a nephew of mine that lives here in the Nation.
- Q Did he live in the Nation at the time? A Yes, sir.
- Q That was in the '50s? A Riley Blythe was the man's name I bought her from.
- Q Was he a citizen of the Cherokee Nation? A Yes, sir.
- Q And she was living with you in the State of Missouri at the breaking out of the war? A Yes, sir.
- Q And you sold her? A I sold her during the war.
- MR. BLEDSOE: Mr. Blythe, you state that you sold this woman, Abbie, during the war; do you know what time you sold her? A Well as I stated it was between '62 and '3, it was before the Proclamation came out. I don't suppose I could have sold her after she was freed.
- Q I didn't know but what you had sold her after the expiration of hostilities; she was your slave then up to the commencement of the war in '61? A Yes, sir.
- Q And you were a Cherokee citizen at that time? A I was a Cherokee but I wasn't living in the Cherokee Nation at that time.
- Q Who was your wife, Mr. Blythe? A She was a Rogers.
- Q What was her name? A Jemima.
- Q A few questions here "Is it a matter of fact that Mr. Blythe sold this girl out to a man in Missouri before the war"; answer: "No, sir, he didn't; he if swore that he is mistaken;" consequently there seems to be difference of opinion. "He didn't sell her before the war came up; if he swore that he is mistaken:" "You know he owned

her at the time the war came up I know, Mr. Hastings, he owned her in '65 for Mrs. Marks was my baby in '65 and this was the nurse for Mrs. Marks". A Yes, I know when the war came up; I don't know that I made a statement of that kind.

Q Did you or not, Mr. Blythe, testify before the Kern-Clifton Commission that you sold her in 1865? A I never sold her until the war came up.

Q Didn't you state before the Kern-Clifton Commission that you sold this woman in 1865? A No, sir, never did; it is wrong print if I did.

Q Isn't it a fact now that she nursed Mrs. Marks as stated here by your wife? A I guess she did.

Q Whom did she belong to at that time? A At the time she nursed Mrs. Marks?

Q Yes? A She belonged to me.

MR. DAVENPORT: Well, in 1865 she nursed Mrs. Marks and belonged to you? A It was in 1862; I think she was mistaken in the year.

Q Well, you know whether or not positively she belonged to you in 1865 after the Emancipation Proclamation? A Yes, sir.

Q The testimony to which your attention was called would she nurse Mrs. Marks or was your slave in 1865? A Oh, shucks, that is all non sense.

Q The Emancipation Proclamation was issued before that time?

A Yes, sir.

MR. ALDROE: Mrs. Marks is ~~your~~ your daughter? A Yes, sir.

Q Do you know when she was born? A In '62.

Q Then she was not a baby in 1865? A If she was she was a big baby.

MILTON M. CAULK, being duly sworn and examined by Commissioner Brockinridge, testified as follows on behalf of Cherokee Nation:

Q Give me your full name? A Milton M. Cauld.

Q How old are you? A 53 years old.

Q What is your post office? A Chelsea.

Q How long have you lived in the Cherokee Nation? A About 12 years.

MR. DAVENPORT: Where did you live prior to coming to the Cherokee Nation, Mr. Caulk? A Lived in Missouri.

Q What place in Missouri? A What is called old Enterprise, in McDonald County, Missouri.

Q Where were you living prior to the breaking out of the war?

A I was living in Missouri.

Q Were you living near Enterprise? A Yes, sir.

Q Did you know James Blythe prior to the breaking out of the war?

A Yes, sir.

Q How his slaves or any of them at that time? A Yes, sir, he had two.

Q What were their names? A Abbie Blythe and Montee.

Q Did you know a Scott family over there and man by the name of Dodson? A Yes, sir.

Q Do you know whether Dodson ever moved to the Cherokee Nation?

A No, sir.

Q You are a citizen of the Nation? A Yes, sir.

Q Do you know whether or not he was a citizen of the Nation or claimed to be a citizen of the Nation? A No, sir, he never claimed to be a citizen.

Q Do you know whether Abbie Blythe was disposed or to any one during the war by Mr. Blythe? A I did not, only hearsay.

Q How long did you know her before the war; had she been living in the state of Missouri? A To the best of my knowledge I think about '55 was when I first got acquainted with her, '55 or '6,

latter part of '55 I think.

Q Do you know with whom she was living or to whom she belonged when the Emancipation Proclamation was issued? A My information was she belonged to Mr. Blythe.

Q You don't know whether he disposed of her? A No, sir.

Q Well, do you know anything about her after the war? A No, sir.

Q Well, all you know is that she was living with Mr. Blythe in the State of Missouri before the war? A Yes, sir.

Q Along in the '50s? A Yes, sir.

This will be filed as additional testimony in Cherokee Freedmen doubtful cases #257, #306, #217, #367, and #368.

---oooOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 14th, 1901.

[Signature]

Commissioner.

K 8A 367

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE NINE CIVILIZED TRIBES
FILED
NOV 15 1901

ACTING CHAIRMAN

CONFIDENTIAL

Copy along with copies to be made by the November 15, 1901.

It is the duty of the Commission to the nine civilized tribes to make a full and complete investigation of the conditions of the tribes and to report the results of the investigation to the Secretary of the Interior. The Commission is authorized to employ such personnel as it may deem necessary for the purpose of the investigation.

Yours very truly,
J. H. ...

File with C.F. D-367, Alice Lynch, et al.

SUPPLEMENTAL: C. F. D-237.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., Oct. 2, 1901.

In the matter of the application of Abbie Blythe et al.
for enrollment as Cherokee Freedmen.

TESTIMONY ON BEHALF OF CHEROKEE NATION.

Appearances:

J. S. Davenport, Esq., of Attorneys for Cherokee Nation;
I. P. Kiedas, Esq., agent for the applicant.

JAMES C. CHILDERS, being sworn by Commissioner Brockinridge,
testified as follows:

BY COM'R BROCKINRIDGE:

Q Give your full name? A James C. Childers.
Q How old are you? A 53.
Q What is your post-office? A Catala at present.
Q In the Cherokee Nation? A Yes sir.
Q How long have you lived in the Cherokee Nation? A Well I
couldn't hardly answer the question properly.
Q Have you lived here all your life? A Might near, yes, sir, well
I will just simply state for the last eight years, the last stay.
Q Where were you born? A I don't know where I was born whether
in the Cherokee Nation or Missouri, but right on the line.
Q How old were you when you first remembered the Cherokee Nation?
A Well I don't know, three or four years old I reckon; best of my
recollection.
Q Where have you lived other than in the Cherokee Nation?
A Well I have lived a little in Kansas and a little in Colorado
and Missouri.

BY MR. DAVENPORT:

Q Where were you living from '55 until '60, Mr. Childers?
A Living right on the line of Missouri, inside of the state.
Q Near what place? A Elk Mills.
Q Was there any post-office known as any place? A Elk Mills was
the post-office.
Q Did you know James Blythe along in '80? A Yes sir.
Q About when did you first get acquainted with him? A Well, to the
best of my knowledge first acquaintance was about '59 or '60 that I
knewed Jim Blythe when I saw him.
Q Where was he living at that time, if you know? A Enterprise,
Missouri.
Q How far was that from the place where you lived? A Between a
mile and a half and 2 miles.
Q Was he engaged in any business over there at that time? A Yes
sir, in the mercantile business.
Q Running a store at Enterprise, Missouri? A Yes sir.
Q Do you know whether or not he had any slaves? A There was a
couple there, I was always told they belonged to him and his wife.
Q Did you know their names? A I personally know the name of the boy
or man, Monroe was his name; I believe they called the girl or woman
Abbie, but I am not right positive about that.
Q From the time you got acquainted with Mr. Blythe until the break-
ing out of the war where did he continue to live, do you know?
A From the time I first got acquainted with him until during the
war he lived at the same place, Enterprise, Missouri.
Q You don't know what became of Blythe during the war? A He went
to Texas or somewhere south time of the war.
Q Did you know him after the war before he came to the Territory?
A Yes sir.
Q Did he live in Missouri any time after the war, if you know? A

Abbie Lythe et al (sup'l) 2

Q You don't know where he lived? A No, he lived somewhere South.
BY MR. BLEDSOE:

Q You are not positive whether he owned this Abbie or not at that time? A No sir, I won't say that he owned them; it was my understanding that he and his wife did, but I don't know it.

Q Were they recognized Cherokee citizens at that time? A Well they were recognized Cherokees, but they was what we term citizens of the State at that time.

Q Do you know whether he was ever re-admitted or not, afterwards?

A I understood he was; after the war he and his wife were re-admitted to the Cherokee Nation.

Q You don't know that of your own knowledge? A No sir.

Q What was the best of your knowledge at that time, that they were citizens of the Cherokee Nation or citizens of Missouri? A Best of my knowledge as I understood they came to Missouri and bought out this farm, that property there and was doing business, and after the war broke, come up, Mr. Blythe himself went South I think with the army and when he come back he moved into the Indian Territory, and was re-admitted. That has been my understanding.

Q What was Mr. Blythe's wife's name? A Jenima Rogers.

Q Do you know a Mr. Tucker, there, Polly Tucker, did you know a Polly Tucker? A Not by that name, no sir.

Q Do you know what time Mr. Blythe went out of the Cherokee Nation; what time was it you saw him in Missouri, that you are speaking of now? A First?

Q Yes? A I couldn't tell you just what time, it was before '60 though.

Q You don't know whether he moved into the Territory then during the war or not? A No sir, I don't think he did; I think his family went to Neosho, Missouri in that vicinity in time of the war and Mr. Blythe went South; he was in the army; that's my understanding, I don't know now though.

Q If Jenima Blythe states that they moved out of the Territory during the war she is mistaken? A Yes sir.

Q She says here, we all moved in just across from the line into Missouri; Abbie went along with us? A She is mistaken or I am one, badly.

Q Well now we want that matter settled, because here is a woman that stands mighty fine character from what I understand, that states positively that they moved out after the war? A After the war?

Q Yes sir, during the war rather, and that they took Abbie along with them and Abbie was a slave, and that's a very serious point for investigation if Abbie was a slave during the war when the war broke out, they were citizens of the Cherokee Nation? A I have nothing else to say; that's all I know about it.

Q You won't be positive she wasn't here? A In time of the war?

Q Yes? A She might have been here on a visit.

BY MR. DAVENPORT:

Q You know that they were living out there and Mr. Blythe was engaged in the mercantile business prior to the breaking out of the war? A Yes sir.

Q And he continued to live there until the war broke out? A He continued to live there until he was broke up during the war.

Commissioner Breckinridge: This will be filed as supplemental testimony in the case of Abbie Blythe, et al., Cherokee Freedmen Doubtful case 227, and also in Cherokee Freedmen Doubtful cases 306, 317 and 348.

Abbie Mythe et al (page 1) 3

M. J. O'Brien, being first duly sworn, deposes that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. J. O'Brien

Subscribed and sworn to before me this November 9th, 1901.



Commissioner.

9720367

WISCONSIN ELECTION

FILED
OCT 13 1901

COMMISSION TO THE

OCT 13 1901

the Commission to the Wisconsin Election Commission
has been organized and the first meeting of the
Commission will be held on the 13th of October at
the State Capitol in Madison, Wisconsin.

the Commission to the Wisconsin Election Commission
has been organized and the first meeting of the
Commission will be held on the 13th of October at
the State Capitol in Madison, Wisconsin.

Commissioner

file with Cherokee Freedmen, D-367, Miss Lynch.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 4, 1901.

In the matter of the application of Abbie Blythe for enrollment as a Cherokee Freedman.

Supplemental testimony on behalf of the applicant.

Appearances:

I. P. Bledsoe, Agent for the applicant;
W. W. Hastings, of counsel for Cherokee Nation.

Abbie Blythe, being duly sworn by Commissioner Needles, testified as follows:

Mr. Bledsoe: What is your name? A. Abbie Blythe.

Q How old are you? A I don't know.

Q To whom did you belong when the war ceased? A I belonged to Miss Blythe.

Q Did you nurse Mrs. Marks that is now? A Yes, sir.

Q Were you nursing Mrs. Marks, or was that what you were doing when you left them? A I was her nurse when I left her, nursed Fanny, her oldest child.

Q Where did you go when you left here? A I went in Kansas somewhere, as I stated before.

Q Who did you live there with? A I lived there with a family by the name of Dodson.

Mr. Hastings: Where were you, went to Missouri when you left?

A I don't know whether it was in Missouri or what.

Q You don't know where you were? A Well I said I told you.

Q Well, do you think you were in Missouri when you left and went off with this man, called Dodson? A Yes, sir, I came home here.

Q Weren't you in Missouri when you left? A Yes, sir.

Q How long had you been in Missouri when the war came up? A I don't know.

Q 20 years? A No, sir.

Q Ten? A I don't know.

Q Well, the best of your judgment? A Well I don't know, I haven't got any judgment about it because I don't know.

Q Well, was you up there five years? A I don't know.

Q Had you been there more than that? A I don't know.

Q You have got no judgment at all about it? A No, sir.

Q You know that you were in Missouri when the war came up?

A No, I wasn't, I was in the Nation here when the war came up, at home.

Q Where? A Well I don't know whereabouts, I told you before that I don't know one place from another.

Q You know Missouri from Arkansas? A No, only I have never been to Arkansas.

Q You know Missouri from the Cherokee Nation? A That is the Cherokee Nation.

Q Well, do you know Missouri from this? A Yes, I guess I do.

Q Guess you do? A I have answered all I can answer.

Q That is all you want to answer? A Yes, I don't want to answer no more.

Q Ever live in Missouri? A (No response).

Q Did you ever live in Missouri at any time? A Well now I have done answered you.

Commissioner: Well answer it again, yes or no. A Of course when I came from there when I came back here.

Commissioner: This testimony will be filed with the original case, and with the following cases: D-257, D-208, D-217, D-267, and D-243.

- 2 -

Bruce S. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce S. Jones

Sworn to and subscribed before me this 15th of October, 1901.

[Signature]

Commissioner.

WILLIAMSON CO. OKLA.

File with C. P. D. 387, Alice Lynch et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., January 27, 1902.

In the matter of the application of Abbie Blythe et al
for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TESTIMONY OF WITNESSES OF CHEROKEE NATION.

Appearances:

Louis T. Brown, agent for applicants and others;
W. W. Hastings, of attorneys for the Cherokee Nation.

ANNA M. DODSON, being sworn by Commissioner Needles testified
as follows:

BY MR. HASTINGS:

- Q What is your name? A Anna M. Dodson.
Q What is your citizenship, Mrs. Dodson? A I live in the Creek
Nation, but I am a citizen of the United States.
Q You don't claim to be of Indian blood? A No sir.
Q Where did you live before the war? A At Elk Hills, in Donald
County, Missouri.
Q That was right on the line wasn't it? A Yes sir, one-fourth of
a mile from the Cherokee line.
Q Did you know Mrs. Jennie Blythe? A Yes sir.
Q Did you know her husband, Jim Blythe? A Yes sir.
Q Did you know them before the war? A Yes sir.
Q Did you know a colored woman they had by the name of Abbie? A
No sir.
Q Where did you go during the war? A Well would you like to know
everywhere I went.
Q No, generally; did you go to Missouri or Kansas? A I went to
Missouri.
Q Were you married up there after the war? A I was married in
Kent County, Maryland.
Q When did you return to the Cherokee Nation, to your old home, to
Missouri I mean? A I returned to my old home in March, 1865.
Q Did you bring any colored person back with you? A No sir.
Q Did Abbie Blythe come back with you? A No sir.
Q How did you and your husband return? A We come in a wagon;
we had two wagons, one with horses and one with oxen.
Q Did you return to your old home at Elk Hills? A Yes sir.
Q Right near the Cherokee line? A Yes sir.
Q Did you cross Grand river or what is known in the state as Cow-
skin river? A Yes sir.
Q About how far south of there did you go? A About a quarter of
a mile.
Q And no colored woman came back with you? A No sir.
Q Did you ever see this Abbie Blythe to know her after the war?
A No sir.
Q You had no children at that time? A No sir.

BY MR. BROWN:

- Q What is your name, please? A Anna M. Dodson.
Q Did any colored person return with you? A No sir.
Q You don't know the applicant in this case at all? A No sir.
Q Was anybody else living in that neighborhood or in about it in
the State of Missouri by the name of Dodson? A Not that I know of.
Q Might be some one there and you not know it? A Yes, there might
be.

BY MR. HASTINGS:

- Q Anyone living anywhere near around you by that name except your
own family? A No sir.

BY MR. BOUT:

For is it that time did your acquaintance with the neighborhood extend, as far as the line, or five or six miles? A Yes sir.

Q Well did it extend further than that? A I knew some persons in different parts of the county, but not generally.

Q There might have been some one in the neighborhood of 10 miles by the name of Dodson and you not know it? A Yes sir.

BY MR. HASTINGS: Let that be filed in D-306, D-217, D-367 and D-368.

W.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

W.D. Green

Subscribed and sworn to before me this January 31, 1902.

[Signature]

Commissioner.

Cher.
Supp'l to Cher. Freed. # 723

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., February 21, 1903.

In the matter of the application of WILLIAM LYNCH, for the enrollment of himself and his children, MARIA, WILLIAM, JR., and CORINE LYNCH, as Cherokee Freedmen.

WILLIAM LYNCH, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

- Q State your name? A. William Lynch.
Q How old are you? A. About thirty-four years old.
Q What is your post office address? A. Chaffee, I.T.
Q You are a Cherokee Freedman are you? A. Yes sir.
Q Is your name on the roll of 1880? A. Yes, sir.
Q What are your children's names?
A Maria, Willie and Corine.
Q Who is the mother of these children?
A Alice Lynch was the mother of Maria and Willie.
Q She was your first wife? A. Yes, sir.
Q Was she a Cherokee freedman? A. Yes, sir.
Q Is she dead? A. No sir.
Q When were you married to Alice? A. Oh its been, I don't know just how long ago, about thirteen years ago.
Q Who married you? A. Parson Allen
Q Did you have a license to be married? A. Yes sir
Q Didn't get a marriage certificate did you? A. No sir.
Q Did you live with your wife Alice all the time until she died?
A She didn't die.
Q Were you divorced? A. We was divorced.
Q Where? A. In the Cherokee court
Q When? A. Its been, I forget the time.
Q How many years ago? A. About five or six years ago.
Q You lived with her all the time from the time you married her until you were divorced? A. Yes, sir.
Q Maria and Willie are your children by your wife Alice?
A Yes sir.
Q The children remained with you? A. Yes, sir
Q Had you any more children by Alice besides these two?
A Two more.
Q Did they go with her? A. Yes, sir
Q You never applied for them? A. No sir.
Q After your divorce from Alice who did you marry?
A Mary Teener
Q Is she a Cherokee woman? A. No sir.
Q She's a State woman? A. Yes sir
Q She isn't claiming citizenship at all? A. No sir.
Q Corine is your child by Mary? A. Yes sir.
Q Have you been living with Mary ever since you married her?
A . Yes sir.

Supp'l to C.F. 723

#2

Q Are these children living? A. Yes sir,
Q They have lived in the Cherokee Nation all their lives?
Q Yes sir.
Q You have been living in the Cherokee Nation ever since 1880?
A Yes sir.
Q Never lived anywhere else? A Never did in my life.

H. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

(Signed) H. C. BAGWELL

Subscribed and sworn to before me this March 27, 1903

(Signed)

SAMUEL FOREMAN
Notary Public

(SEAL)

Lucy M. Bowman being duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that the same is a true and complete copy of the original transcript.

Lucy M. Bowman

Subscribed and sworn to before me this December 9, 1905.

Edward Merrien
Notary Public.

JOR

Cherokee F. D-367.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHEROKEE LAND OFFICE.
Tahlequah, I. T., March 1, 1905.

In the matter of the application of Alice Lynch for the enrollment of herself and children, Lovely Eaton, Marly Calvin and Eddie Lynch, as Cherokee Freedmen. No. F.D-357.

LOVELY McGEE, being duly sworn and examined by the Commission, testified as follows:---

- Q What is your name? A Lovely Eaton.
Q Lovely what? A Lovely McGee.
Q How old are you? A I don't know just exactly how old I am.
Q About 18? A Yes sir.
Q What is your post-office? A Spavinaw.
Q Are you a daughter of Alice Lynch? A Yes sir.
Q Did she apply for your enrollment as a Cherokee Freedman?
A Yes sir.
Q Are you married? A Yes sir.
Q When did you marry? A Last September.
Q What day? A The 28th day.
Q 1904? A Yes sir.
Q What is the name of your husband? A Thomas McGee.
Q Is he a claimant for enrollment as a Cherokee Freedman?
A Yes sir.
Q Are you and he living together now? A Yes sir.

Joe Chambers, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony in this case, and that the above and foregoing is a true and complete copy of his stenographic notes.

Subscribed and sworn to before me
this 6th day of March, 1905.

Joe Chambers

J. R. ...

Notary Public.

JC

1
Cherokee Freedman D 257 et al.
Including Cherokee Freedman D 267.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Alice Lynch et al., as Cherokee Freedmen,
--1--

ORDER.

It is ordered that copies of the testimony taken on
May 7, 1901 and February 21, 1903, in re application of William
Lynch et al., for enrollment as Cherokee Freedmen, case No. 722,
be filed with and made a part of the record in the case of Alice
Lynch, Cherokee Freedman Doubtful No. 347.

W. O. Beall
Acting Commissioner

Dated at Muskogee, Indian Territory,
this DEC 9 - 1905

C.D. 367

COMMISSIONER TO THE CIVIL SERVICE DIVISION

FILED

JAN 8 - 1906

COMMISSIONER

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., DECEMBER 21, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of ALICE LYNCH ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, I. P. Bledsoe, Agent.
For Cherokee Nation, James S. Davenport.

ALICE LYNCH, being first duly sworn, testified as follows:

BY MR. BLEDSOE:

Q What is your name? A Alice Lynch
Q How old are you? A 36 or 37 I don't know exactly which.

ON BEHALF OF THE COMMISSIONER:

Q What is your post office? A Chaffee.
Q You are an applicant for enrollment as a Cherokee freedman?
A Yes sir.
Q Have you a child named Levely? A Yes sir.
Q What is the name of his father? A Her father is named Fred Martin.
Q Is he the Fred Martin that lives at Vinita? A No sir, he lives close to Dewey.
Q Do you know the name of his father? A Yes sir.
Q What? A His father was named Fred Martin.
Q What washer name? A Julia Martin.
Q Is Fred living now? A Yes sir.
Q Is he married? A Yes sir.
Q Do you know the name of his wife? A Jennie.
Q Was he got some children? A Yes sir.
Q Give their names? A I don't know whether I can name them are not, one named Sel and one named Sylvester.
Q You were formerly the wife of William Lynch? A Yes sir.
Q You and William had some children? A Yes sir.
Q What were their names? A The oldest named Mariah, next David, Willie next, Earl and then Calvin and Eddie.
Q How long since you and William separated? A Well since, not to say entirely separated until his death.
Q You lived together from time to time until he died? A Ince in a while.
Q How is William Lynch the father of Eddie? A Yes sir.
Q Are you sure of that? A Yes sir.
Q How long had you and he been separated when Eddie was born? A I don't know just exactly how long we had been separated quite a little bit.
Q How he testified when he made application for the enrollment of himself and his two children that you and he only had two other children, how about that? A Well I don't know what he testified to.
Q Have you married since you and William separated? A No sir.
Q Have you ever lived with any one besides William? A No sir.
Q William married again? A Yes sir.
Q Did you and he continue to cohabit after he married his other wife? A Yes sir, this baby has been born since he was married.

Q William Lynch is the father of that child although he had another wife? A Yes sir.

BY MR. HLEDSON:

Q You and he were not divorced? A No sir.

BY MR. DAVENPORT:

Q Were you ever married? A Yes sir.

Q You and he were just simply if you cohabited at all, did it on the sly? A He come home and stay all night, for two or three years whenever he felt like it.

Q Who else come and stay that way? A No sir.

Q Plenty others had the same opportunity as he did, you were living in a neighborhood where there was plenty of men? A Yes sir.

Q You knew he was married before this child was born? A Yes sir.

Q You and he haven't lived together since that time? A Yes sir.

Q You have cohabited with him since this child was born? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

Q Have you cohabited with any other men besides him? A No sir.

Q Sure of that? A Sure of that.

MARY BAIL, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

Q What is your name? A Mary Bail.

Q How old are you? A 37 years old.

Q What is your post office? A Vinita.

Q Are you a Cherokee Freedman? A No sir.

Q Do you know Alice Lynch? A Yes sir.

Q Has she a child named Eddie Lynch? A Yes sir.

Q Is the child living? A Yes sir.

Q Who is its father? A William Lynch.

Q How do you know? A That is what she said and he said, I reckon they are the ones to know.

Q Is William Lynch any kin to you? A No sir.

BY MR. HLEDSON:

Q Had William Lynch tell you that he was the father of this child, Eddie? A Yes sir, said he was the father of five.

BY MR. DAVENPORT:

Q Did he tell you how he came to know he was the father of this one? A No sir, I guess I didn't want to know.

Q They were not living together as man and wife at the time this child was born? A No sir.

Q Hadn't for several years before, had they? A Yes, I knew they were not living together as man and wife.

Q You knew William Lynch had another wife? A Yes sir.

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 5th day of January, 1906.

B. P. Rasmus
Notary Public.

COPY.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Abbie Blythe, et al., for enrollment as Cherokee Freedmen, consolidating the applications of:

Abbie Blythe et al.,	Cherokee Freedmen D 287
Nancy Thompson,	Cherokee Freedmen D 217
Edmond Blythe	Cherokee Freedmen D 306
Alice Lynch, et al.,	Cherokee Freedmen D 367
Lucy Landrum, et al.,	Cherokee Freedmen D 346
Anna Henry	Cherokee Freedmen D 1074.

D E C I S I O N .

THE RECORD HEREIN SHOWS: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Abbie Blythe for herself and minor children, Minnie and Calis Blythe; by Jordan Thompson for, among others, his wife, Nancy Thompson; by Edmond Blythe for himself; by Alice Lynch for herself and minor children, Lovely Eaton, Harly, Calvin and Edie Lynch; by William Leonard Landrum for, among others, his wife, Lucy Landrum; and by Anna Henry for herself. The others included in the above applications having been differently classified their rights to Cherokee freedman citizenship will not be considered in this decision.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Abbie Blythe, claims the right to Cherokee freedman citizenship by virtue of her compliance with the provisions of Article nine treaty of 1866, and that the other applicants herein claim the same right as her descendants.

The following points are fully established by the proof submitted:

- (1) That the applicant, Abbie Blythe, was the slave of a Cherokee citizen at the commencement of the rebellion, and for several years prior thereto resided with her master in the state of Missouri; that during the war she was sold to a citizen of said state, named Lamance, and continuously lived therein till about the year 1875, when she, with her family, removed to the Cherokee Nation, and has since continuously resided therein.
- (2) That said applicant, Abbie Blythe, is the mother of the applicants, Anna Henry, Alice Lynch, Edmond Blythe, Nancy Thompson, and Minnie and Calis Blythe, and that the applicant, Alice Lynch, is the mother of the applicants, Lucy Landrum, Lovely Eaton and Early, Calvin and Eddie Lynch, all of whom were born, in the order named, since the close of the rebellion. And that the father of the applicants, Early and Calvin Lynch (both of whom were born subsequent to the year 1890) was one William Lynch, now deceased, who, the records of this office show, is identified on the Cherokee authenticated tribal roll of 1880, and on the final Cherokee Freedman approved roll, opposite No. 1795.
- (3) That, except as above noted, neither the applicants herein nor any discovered ancestor through whom by any possibility they might obtain rights to Cherokee freedman citizenship can be identified on the Cherokee authenticated tribal roll of 1880 or the Cherokee census roll of 1896.

The evidence further shows that the said Anna Henry and Alice Lynch were born in the state of Missouri of white paternity, and, in the absence of proof to the contrary, it will be presumed that their fathers were non-citizens of the Cherokee Nation.

It further appears that ample opportunity has been afforded the applicants Edmond Blythe and Nancy Thompson to establish their paternity, but that in this they have wholly failed, hence, it can not be presumed that they obtain any rights to Cherokee citizenship from that source.

It is further shown that the applicant, Abbie Blythe, testified that the father of her two children, Minnie and Calis Blythe, was one Calvin Hilderbrand, now deceased, but, after ample opportunity having been afforded, it is not established that the said Calvin Hilderbrand, deceased, was a Cherokee citizen. An examination of the Cherokee records in this office fails to disclose that this alleged ancestor was ever recognized by the Cherokee authorities as a citizen of the Cherokee Nation, consequently, it can not be presumed that the two applicants last above named obtain any rights to Cherokee citizenship through their father.

It also appears that on her first appearance before the

Commission in this case, the applicant, Alice Lynch, testified that her oldest child, Lucy Landrum, nee Eaton, was the daughter of one Thomas Eaton, who, the records of this office show, is on the final Cherokee Freedman roll opposite No. 1742, and that her oldest child living at home was named "Lovely Eaton". Enrollment card Freedman D 367, shows that the said Alice Lynch gave the name of Lovely Eaton's father as Thomas Eaton, and the record herein shows that in a birth affidavit executed by her on May 21, 1901, and filed with the Commission on August 31, 1901, she deposed that Tom Eaton was the father of her child, Love (Lovely) Eaton. And that on her last appearance herein she testified that the father of her said child, Lovely Eaton, was one Fred Martin, who, the records of this office show, is on the final Cherokee Freedman roll opposite No. 4052. And that she further testified that the father of her child, Eddie Lynch, was the said William Lynch, deceased, above referred to.

The only proof herein relative to the paternity of the said Lucy Landrum and Lovely Eaton is the uncorroborated testimony of their mother, and which, as to Lovely Eaton, is contradicted by the information she gave the card clerk, and also by the birth affidavit executed and filed by her. The testimony of this applicant further shows that her two children last above named, are the fruits of an occasional illicit association with their fathers, whoever they may be.

As to the paternity of the applicant, Eddie Lynch: The record (birth affidavit) shows that he was born December 18, 1900. Also that on May 7, 1901, and February 21, 1903, the said William Lynch, since deceased, appeared before the Commission to the Five Civilized Tribes at Vinita, Indian Territory, and testified that he was the former husband of the said Alice Lynch, and that about 1897 or 1898 he was divorced from her; that four children were born to them, two of whom, at their separation, remained with their mother and two, Maria and Willie, went with him and for whom he made application for enrollment; and that since his divorce from Alice he married one Mary Teener by whom he had one child, who, a comparison of the record shows, is between one and two months younger than the said Eddie Lynch.

In view of the foregoing it is considered that the evidence in this case fails to satisfactorily establish the paternity of Lucy Landrum, Lovely Eaton and Eddie Lynch, hence the applications for their enrollment as descendants of their fathers come within the ruling of the Department in the cases of Eliza Bryant, et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan et al. (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Moses Ross (I.T.D. 6056-04), Jane Looney et al. (I.T.D. 6410, 12688-04), Florence Bratcher (I.T.D. 12692-04), and Frankie Grimmatt (I.T.D. 17902-1905).

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress ap-

proved June 28, 1906 (30 Stat., 495), Abbie Blythe, Minnie Blythe, Calie Blythe, Nancy Thompson, Edward Blythe, Alice Lynch, Lively Eaton, Eddie Lynch, Lucy Landrum and Anna Henry, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied; and that, in accordance with the provisions of Section Twenty-one of the Act above cited, Early Lynch and Calvin Lynch, are entitled to enrollment as Cherokee freedmen, and their application for enrollment as such is accordingly granted.

SIGNED

Tame Birby.

Commissioner

Dated at Muskogee, Indian Territory,

this JUN 28 1906

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Alice Lynch,
Spavinsaw, I. T.
Cherokee F-D-567.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

INDEXED.

COMMISSION TO FIVE TRIBES.			
No.	Received	ANSWERED	
13093	SEP 6- 1901	Book	Page
1901			

SEP 5 - 1901

Synch, Alice
Vinita, I. T.
Aug. 27/01.

Giving information
relative to Calvin Synch
and correct name of infant
for Canton.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
AUG 31 1901


ACTING CHAIRMAN.

File with Cherokee
Breedmen Roll
Board, Field No
12367.

Admitted to Practice in
Cherokee Freedmen Citi-
zenship Cases before the
Davies Commission

Two hundred farms to
rent, sell and trade.

Collections a specialty.

LOUIS T. BROWN,

NOTARY PUBLIC.

VINITA, I. T.

Aug. 27 1901

To the Honorable,

The Davies Commission

Sirs:-

Referring to your letter of July 30th, I have to
state, Calvin Lynch was born May 26th 1898, and the
correct name of my child is Lon Eaton.

Respectfully

Alice Lynch

Per L.T.B.

Ref. D case 367.

Cherokee Freedmen
D-2274

X 367

Maskogee, Indian Territory, February 3, 1904.

Alice Lynch,

Spavinaw, Indian Territory.

Dear Madam:

In the matter of your application for the enrollment of yourself and your four minor children as Cherokee freedmen, you are advised that the Commission desires definite information as to Thomas Eaton, the father of your child Lovely Eaton, and as to William Lynch, the father of your children, Earl, Calvin and Eddie Lynch.

You are requested to advise the Commission whether or not these parties ever applied for enrollment as citizens of the Cherokee Nation, and you will give their ages, present postoffice addresses and the date and place when they applied.

Respectfully,

Commissioner in Charge.

Land.
50395-1905.

(COPY)

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

WASHINGTON.

July 29, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated June 28, 1905, transmitting the record of the application for enrollment as Cherokee Freedmen by Rachel Martin for herself and her two children, Luther and John Martin.

June 28, 1905, the Commission decided favorably to John Martin and adversely to the other applicants.

The record shows that Rachel Martin was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that during the war she went out of the Cherokee Nation, and that she did not return thereto on or before February 11, 1867.

The record further shows that Luther Martin is the son of Rachel and John Martin and claims right to enrollment through both parents. The record shows that John Martin was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that during said war he removed from the Cherokee Nation, but did not return thereto on or before February 11, 1867.

It further appears that the applicant, John Martin (or Towers) is the son of Rachel Martin and one John Towers whose name appears at No. 3423 on the partial roll of Cherokee Freedmen approved by the Department November 16, 1904.

All of the applicants are identified on the Kern-Clifton roll but upon no other Cherokee roll.

In view of the record the approval of the Commission's decision favorable to John Martin and adverse to the other applicants is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

M.W.V.
W.

Cherokee
F D-369.

Muskogee, Indian Territory, September 23, 1905.

I. P. Blodgett,

Agent for Alice Lynch,

Choteau, Indian Territory.

Dear Sir:

In connection with the application for the enrollment of Alice Lynch and her children, Lovely Eaton, now McGhee, Mary, Calvin, and Eddie Lynch, as Cherokee freedmen, you are advised that it will be necessary that further testimony be introduced as to whether or not Alice Lynch possesses any right to enrollment as a Cherokee freedman through her deceased father, and as to the paternity of her child, Lovely Eaton, and as to whether or not her children, Mary, Calvin, and Eddie Lynch possess any right to enrollment through their alleged father, William Lynch.

The principal applicant, Alice Lynch, has this day been notified to appear before the offices of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, September 28, 1905, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in this case.

Respectfully,

(SIGNED)

Wm O. Reese
Acting Commissioner.

CHL

Cherokee
F D-367.

COPY.

Muskogee, Indian Territory, September 12, 1905.

William Lynch,

Hayden, Indian Territory.

Dear Sir:

You are requested to advise this office as to whether or not you have ever been married, and if so to advise the present name of your wife, as well as her maiden name, and to advise the names of any children you have ever had. You are also requested to advise the names of your parents.

This information is desired in connection with a certain Cherokee freedman enrollment case pending before this office.

Respectfully,

RECEIVED

Wm. B. Brice
Acting Commissioner.

GHL

Cherokee
F B-107.

COPY.

Muskogee, Indian Territory, September 12, 1905.

Ball, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In connection with the application for the enrollment of Alice Lynch and her children, Lovely Eaton, now McChes, Mary, Calvin, and Eddie Lynch, as Cherokee freedmen, you are advised that it will be necessary that further testimony be introduced as to whether or not Alice Lynch possesses any right to enrollment as a Cherokee freedman through her deceased father, and as to the paternity of her child, Lovely Eaton, and as to whether or not her children, Mary, Calvin, and Eddie Lynch possess any right to enrollment through their alleged father, William Lynch.

The principal applicant, Alice Lynch, has this day been notified to appear before the offices of the Commissioner to the Five Civilized Tribes, at Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, September 28, 1905, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in this case.

Respectfully,

SIGNED:

Wm. J. Ball
Acting Commissioner.

CHL

(C O P Y)

Cherokee
F. D-367

Muskogee, Indian Territory, September 12, 1905

Alice Lynch,

Spavinaw, Indian Territory.

Dear Madam:

In connection with your application for the enrollment of yourself and children, Lovely Eaton, now McGhee, Early, Calvin and Eddie Lynch, as Cherokee freedmen, you are advised that it will be necessary that further testimony be introduced as to whether or not you possess any right to enrollment as a Cherokee freedman through your deceased father, and as to the paternity of your child, Lovely Eaton, and as to whether or not your children, Early, Calvin and Eddie Lynch possess any right to enrollment through their alleged father, William Lynch.

You are, therefore, hereby notified to appear before the offices of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, September 28, 1905, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in this case.

Respectfully,

(Signed) Wm. O. Beall
Acting Commissioner

GHL

Register,

INDEXED

COMMISSIONER TO FIVE TRIBES.			
No.	Received	ADVERSE	
43626	SEP 18	Back	Page
1905		1905	

Lynch, William
Chelsea, I.T.
Cherokee Nation,
Sept. 16, 1905.

States maiden name of his
wife was Geneva Rose.

200 1801

J. D. MILLER,

REAL ESTATE AND INSURANCE.

F.D. #367

CHELSEA, IND. TER.

Sept. 16

1905

Hon. Commission of Five Tribes.
Muskogee, I. T.
Gentlemen:

Yours of 12th inst. to hand
in reply would say that my wife
name is Geneva. Her maiden name was
"Rose" have only one child her name
is True Lynck age 8 years.
The names of my parents were
Joe and Caroline Lynck.

Cherokee, F. D. #367. Respt.
William Lynck

Cherokee Freedmen

copy.

D-367.

Muskogee, Indian Territory, December 9, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee nation,
Muskogee, Indian Territory.

Gentlemen:

In connection with the Cherokee freedmen enrollment case of Alice Lynch, et al., you are advised that before a decision can be rendered in said case it will be necessary that further testimony be introduced as to the paternity of Eddie Lynch.

Said Alice Lynch has this day been notified to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M., on Thursday, December 21, 1905, and introduce further testimony to show who is the father of said child, and whether or not she was married to him. It is desired that the testimony of the father of Eddie Lynch be introduced if it is possible to do so. The Cherokee Nation will also be permitted to appear on that day and introduce such testimony as it desires in this case with reference to the paternity of said child.

Respectfully,

SIGNED:

Wm. O. Beale
Acting Commissioner.

LS

Cherokee Freedmen

COPY.

D-367.

Muskogee, Indian Territory, December 9, 1905.

Alice Lynch,

Spavinaw, Indian Territory.

Dear Madam:

In connection with the Cherokee freedmen enrollment case of yourself and, among others, your child, Eddie Lynch, you are advised that before a decision can be rendered in said case it will be necessary that further testimony be introduced as to the paternity of your said child.

You are, therefore, hereby notified to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M., on Thursday, December 21, 1905, and introduce further testimony to show who is the father of said child, and whether or not you and he were married. It is desired that you introduce the testimony of the father of Eddie Lynch if it is possible for you to do so.

The Cherokee Nation will also be permitted to appear on that day and introduce such testimony as it desires in this case with reference to the paternity of said child.

Respectfully,

(SIGNED):

J. M. O. Beale
Acting Commissioner.

LS
Register

Cherokee Freedmen

COPY.

D-369.

Muskogee, Indian Territory, December 9, 1905.

I. P. Bledsoe,

Agent for Alice Lynch, et al.,

Choteau, Indian Territory.

Dear Sir:

In connection with the Cherokee freedmen enrollment case of Alice Lynch, et al., you are advised that before a decision can be rendered in said case it will be necessary that further testimony be introduced as to the paternity of Eddie Lynch.

Said Alice Lynch has this day been notified to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday, December 21, 1905, and introduce further testimony to show who is the father of said child, and whether or not she was married to him. It is desired that the testimony of the father of Eddie Lynch be introduced if it is possible to do so.

The Cherokee Nation will also be permitted to appear on that day and introduce such testimony as it desires in this case with reference to the paternity of said child.

Respectfully,

SIGNED:

Wm. O. Bledsoe
Acting Commissioner.

Cherokee Freedmen

COPY.

D-367.

Muskogee, Indian Territory, December 12, 1905.

I. P. Bledsoe,

Attorney for Alice Lynch, et al.,

Choteau, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of an order of the Acting Commissioner to the Five Civilized Tribes, dated December 9, 1905, making certain testimony taken inconnection with the Cherokee Freedmen enrollment case of William Lynch, case No. 723, a part of the record in the application for the enrollment of Alice Lynch, et al., D-367, together with a copy of said testimony.

Respectfully,

SIGNED

Wm. J. Seale
Acting Commissioner.

Incl. S-67

Vinita, I.T. February the 16th. 1906.

To the Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Honorable Sir; Having placed my business in the hands of
Wilson and Davis, Attorneys at law, of Vinita, I.T., I hereby
request you to kindly write me in all matters concerning my cit-
izenship case now pending and the allotment of my lands in the
Cherokee Nation, and in the event I should be successful in my
said citizenship case to send me my allotment certificates, in
care of my said attorneys, Wilson and Davis, at Vinita, I.T.

Very respectfully yours,

Lovely McGhee.

Cherokee Freedmen

D-367.

Muskogee, Indian Territory, February 20, 1906.

Lovely McGhee,

Vinita, Indian Territory.

Dear Madam:

This office is in receipt of your letter of February 16, stating that you have employed Wilson & Davis of Vinita, Indian Territory, to represent you in the matter of your citizenship and allotment of land in the Cherokee Nation, and in the event you are enrolled as a citizen of the Cherokee nation, you ask that your allotment certificates be sent to you in care of your attorneys.

Your letter has been noted and filed.

Respectfully,

LS

Acting Commissioner.

(COPY)

Chaffee, I.T., Mar. 3-06.

To The Hon. James Bixby,
Commissioner of the Five Civilized Tribes.,
Muskogee, I. T.

Dear Sir:--

I wish to employ, Messrs Zeverly & Givens, of
Muskogee, I. T., as associate attorneys in the case of my appli-
cation for enrollment as a Cherokee Freedman, and I request
that they be entered as such associate attorneys in my case.

Respectfully

his
Edmond X Elythe
mark
her
Winnie X Elythe
mark.

Witness:--

G. W. Spiller
Lillie Mayfield.

Choteau, I. T., March 10th 1906.

To Hon. Dawes Commission.

I wish to have the names of Messrs. Zevely & Givens as my associate attorneys in the cases of Abby Blythe, Edmond Blythe et al., Cherokee freedmen. Please have them so listed and oblige.

I. P. Bledsoe.

COPY.

Cherokee Freedmen
D-367.

Muskogee, Indian Territory, June 28, 1906.

Wilson and Davis,

Attorneys for Lovely McGhee,

Vinita, Indian Territory.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting among others, the application for the enrollment of Lovely Eaton, as a Cherokee freedman. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. M.A.29-12.

Tamm Bixby
Commissioner.

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedmen
D. 387.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 28, 1906.

Alice Lynch,

Spavinaw, Indian Territory.

Dear Madam:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting, among others, your application for the enrollment of yourself and children, Lovely Eaton and Eddie Lynch, and granting your application for the enrollment of your children, Early and Calvin Lynch, as Cherokee freedmen.

Your agent, I. P. Bledsoe, Chouteau, Indian Territory, and attorneys, Zevely and Givens, Muskogee, Indian Territory, have heretofore been furnished copies of the record of proceedings had in your case, and there have this day been forwarded to them copies of the Commissioner's decision.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. M.A.28-11.
Register.

Commissioner.

Cherokee Freedmen
B 257.

COPY.

Wahkago, Indian Territory, June 28, 1906.

I. P. Hodges,

Agent for Abbie Blythe, et al,

Chautauk, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the applications for the enrollment of Abbie, Minnie and Gail Blythe; Nancy Thompson; Edward Blythe; Alice and Eddie Lynch; Lovely Eaton, and Anna Kenty as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in said case.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

WISHED.

Encl. H.A. 22-17.

Tame Bixby.

Commissioner.

COPY.

Cherokee Freedmen
D 257 et al.

Muskogee, Indian Territory, June 28, 1906.

Bell, Hastings and Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the application for the enrollment of Abbie, Minnie and Calie Blythe; Nancy Thompson; Edmund Blythe; Alice and Eddie Lynch; Lively Eaton; Lucy Landrum and Anna Henry, and granting the application for the enrollment of Early and Calvin Lynch, as Cherokee freedmen.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. M.A. 25-18

SIGNED:

Tame Dixby.

Commissioner.

Cherokee Freedmen
D 257 et al.

COPY.

Waskagee, Indian Territory, June 28, 1906.

Lovely and Givens,

Attorneys for Abbie Blythe et al,

Waskagee, Indian Territory.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the application for the enrollment of Abbie, Winnie and Calia Blythe; Nancy Thompson; Edmund Blythe; Alice Lynch; Lovely Eaton; Eddie Lynch; Lucy Landrum; and Anna Henry, and granting the application for the enrollment of Early and Calvin Lynch, as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in said case.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

(SIGNED).

Tamr Dixby.

Commissioner.

Encl. M.A. 28-16.

COPY.

Muskogee, Indian Territory, June 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the consolidated application of Abbie Elythe et al, including the decision of the Commissioner to the Five Civilized Tribes dated June 22, 1906, rejecting the applications of Abbie, Minnie and Calie Elythe; Nancy Thompson; Edmund Elythe; Alice and Eddie Lynch; Lovely Eaton; Lucy Landrum and Anna Henry, and granting the application for the enrollment of Early and Calvin Lynch as Cherokee freedmen.

Respectfully,

Encl. W.A.22-19.

SIGNED).

Tams Bixby.
Commissioner/

Muskogee, Indian Territory, August 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a reply of the Cherokee Nation to a motion for a rehearing in the Cherokee freedman case of Abbie Rlythe, et al, D. 227, et al. Service of a copy of this motion on Kevely, Givens and Smith, attorneys for applicants, Muskogee, Indian Territory, is shown. The records of this office fail to show that a motion for a rehearing of the freedman case of Abbie Rlythe, et al, has been filed with it.

The decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the applicants embraced in said case was, together with the record of proceedings had in the case, forwarded to the Department on June 28, 1906.

Respectfully,

Encl. N. A. 22-1.

Commissioner.

Through the Commissioner
of Indian Affairs,

(COPY)
DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND
66236-1906.
65644-1906.
73626-1906.

September 12, 1906

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a letter from the Commissioner to the Five Civilized Tribes, dated June 28, 1906, enclosing the record in the case of Abbie Blythe, et al., applicants for enrollment as Cherokee freedmen; also a motion for re-hearing filed in this Office on July 31, 1906, by McGowan, Serruss & Mohun, Washington, attorneys for the applicants. On August 22, 1906, the Commissioner transmitted to this Office the reply on behalf of the Cherokee Nation, showing written acceptance of service on August 9, 1906, by Zevely, Givens & Smith, attorneys for the applicants.

The principal applicant in this case, Abbie Bly (or Blythe), made application for the enrollment of herself and two minor children, Minnie Bly, aged sixteen and Calis Bly, aged twelve, on May 11, 1901, at Vinita, at which time she introduced testimony in support of her contention. Supplemental testimony was submitted on May 15, 1901, on October 2, 1901, October 4, 1901, January 27, 1902, and September 28, 1905. The other applicants in this case, Nancy Thompson, Edmund Blythe, Alice Lynch, et al., Lucy Landrum, et al. and Anna Henry, are the

(2)

children and grandchildren of the principal applicant, whose rights to enrollment as Cherokee freedmen depend entirely on such rights as she may have, except in two instances mentioned in the decision.

The evidence shows that Abbie Bly (or Blythe) was the slave of James Blythe, a Cherokee citizen, before and at the commencement of the Civil War. The testimony of Blythe himself is that when the war broke out he was living in McDonald county, Missouri, and had been a resident of that State for about five years; that Abbie was his slave in Missouri, and that in the year 1862 or 1863 he sold her to one James Lamance, of Pineville, Missouri, that he next saw her after the war in the spring of 1866, when she came to him and again wanted to live in the family as in former days; that he saw her no more until sometime after he moved to Vinita in 1871, when she came to him to seek advice as to the best place for her to locate.

The testimony of Abbie Blythe is very indefinite, contradictory and unsatisfactory on the one material point in this case, viz: as to when she returned to the Cherokee Nation after the war. At one time she said she came in a wagon with a family named Dodson, from some place in Kansas, and denied that she had ever lived in Missouri; that they came back in the fall of 1866, and camped out on the Grand River. At another time she testified that she came back with a white family but did not know the name. The testimony of Mrs. Blythe

is clear on all points save that concerning Abbie's return to the Cherokee Nation, though somewhat in conflict with that of her husband, which is easily accounted for by reason of the great lapse of time intervening between the events and the hearing; but as to where Abbie Blythe was from 1866 to 1879 she knows nothing.

Captain Hicks, another of her witnesses, testified that he had known Abbie twenty-five or twenty-six years in the Cherokee Nation, but that he did not know where she was in 1866. It will be observed that he became acquainted with her in 1875 or 1876. The name of Abbie Bly (or Blythe) does not appear on the authentic roll of 1880, nor on the census roll of 1896, but does appear on the Kerns-Clifton Roll as Abbie Blye, No. 3897, Coowaseeowee District, while Minnie Blye is on the same roll as No. 3899 and Callus Blye appears as No. 3900.

The evidence shows that applicants Anna Henry and Alice Lunch were born in the State of Missouri, and the Commissioner found that both were of white paternity, and assumed that the fathers were non-citizens. It is alleged by Abbie Blythe that one Calvin Hilderbrand, deceased, was the father of Minnie and Callis Blyth, but there is no evidence that he was a citizen of the Cherokee Nation, even if it be assumed that he was in fact the father. There is no evidence showing who was the father of Edmond Blyth and Nancy Thompson.

The testimony in this case shows a very low state of morals, and about the only established fact is that Abbie Nly was a slave and is the mother of her children. Early Lynch and Calvin Lynch were proven to be the children of William Lynch former husband of Alice Lynch, from whom he was divorced in 1897 or 1898, and were duly enrolled as children of their father under Section 21 of the Act of June 28, 1898, (30 Stats. 495).

The motion for re-hearing is supported by five affidavits, which are presumed to be on the theory of newly discovered evidence, though no proper showing is made to establish that fact. Without entering into any discussion as to the showing necessary to justify a re-hearing, the Office calls attention to the fact that four of these affidavits signally fail to locate the principal applicant in the Cherokee Nation during 1866 or 1867, or at any other time. All they do is to locate her in Missouri at different times after the War.

The affidavit of Simon Lynch locates her in the Cherokee Nation, but even if his affidavit be true, it would seem that the exercise of any degree of diligence would have found him and produced him before the Commission during the five years this case was open.

The Office respectfully recommends that the motion for a re-hearing be denied, and that the decision of the Commissioner rejecting the enrollment of all the applicants except Early

(5)

Lynch and Calvin Lynch be affirmed; also that the enrollment
of Early Lynch and Calvin Lynch be approved.

Very respectfully,

F. H. Lynch.

Commissioner.

HWD-LC..

COPY

LAND
52422-1906.
60731- "
72814- "

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

September 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:--

Referring to Department letter of July 16, 1906, (I.T.D. 83019-1906), this office transmits herewith for your consideration the record in the Cherokee freedmen enrollment case of Dora Miller, et al; also the decision of the Commissioner to the Five Civilized Tribes, dated June 1, 1906, granting the application for the enrollment of Dora, Vine, Clarence and Gerald Miller, and dismissing the application for the enrollment of Willie Miller, deceased, as a Cherokee freedman.

The record shows that on May 8, 1901, Dora Miller appeared before the Commission to the Five Civilized Tribes at Vinita, Indian Territory, and made application for the enrollment of herself and minor children, Vine, Clarence, Gerald and Willie Miller as Cherokee freedmen. Further proceedings in the case were had at Muskogee, Indian Territory on May 23, 1902 and November 16th and December 21, 1905.

The evidence shows that on February 11, 1867, one Carrie Richardson, nee Ratcliffe, since deceased, was a bona fide domiciled freedman of the Cherokee Nation; that Dora Miller, the principal

applicant, is the daughter of Carrie Richardson, deceased; that Dora Miller was born about 1875, and since 1880 has continuously lived within the domain of the Five Civilized Tribes, and that the minor applicants herein are children of the applicant, Dora Miller, were born since 1890, and have continuously resided with their mother since, with the exception of Willie Miller who died on June 17, 1901.

The Commissioner to the Five Civilized Tribes on June 1, 1906, decided that in accordance with the provisions of Section 21 of the Act of Congress approved June 28, 1898, (30 Stats., 495), Dora Miller, Vine Miller, Clarence Miller and Gerald Miller were entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such were accordingly granted; that under the provisions of Section 25 of the Act of Congress approved July 1, 1902, (34 Stats., 671), the application for the enrollment of Willie Miller, deceased, was dismissed.

This Office concurs in the decision of the Commissioner to the Five Civilized Tribes, and recommends Departmental approval thereof.

Very respectfully,

C. F. Larrabee.

Acting Commissioner.

KBM-KEN.
incs.

D.C. 52497-1906.

(COPY)

DEPARTMENT OF THE INTERIOR

Y.P.

WASHINGTON

LLB

I.T.D. 8631-1905.
9620- "

November 28, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 28, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application for the enrollment of Rachel Martin and her two children, Luther and John Martin, as Cherokee freedmen, including its decision of the same date, rejecting the application for the enrollment of Rachel and Luther Martin and granting the application for the enrollment of John Martin as Cherokee freedmen.

Reporting July 29, 1905 (Land 50395), the Indian Office recommended that the Commission's decision be approved. A copy of its letter is inclosed.

September 7, 1905, attorneys for applicants filed a motion for review of said decision.

There appears to be no proper reason for granting said motion and it is hereby denied.

The Department concurs in the recommendation made, and the decision of the Commission is hereby affirmed.

The papers in the case, including said motion for review, have been sent to the Indian Office for its files.

Through the Commissioner
of Indian Affairs.

Respectfully,
(Signed) Theo. Ryan,
First Assistant Secretary.

1 inc. and 3 to Ind. Of.

D.C. 84100

(COPY)

J.F.Jr.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

I.T.D. 17918-1906.

December 8, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Indian Office on September 13, 1906 (Land 73828), transmitted your report dated June 28, 1906, forwarding the record in the matter of the consolidated applications of Abbie Blythe et al. for enrollment as Cherokee freedmen.

On June 28, 1906, you rendered a decision rejecting the applications of Abbie, Minnie, and Callie Blythe, Nancy Thompson, Edmond Blythe, Alice and Eddie Lynch, Lovely Eaton, Lucy Landrum, and Anna Henry and granting the application for the enrollment of Early and Calvin Lynch as Cherokee freedmen.

There is also transmitted a motion for rehearing filed by the attorneys for the applicants and the reply of the nation to said motion.

The Indian Office recommends that the motion for rehearing be denied, and that your decision rejecting the applications for the enrollment of all the applicants except Early and Calvin Lynch be approved. A copy of its letter is inclosed.

The Department has considered the motion for rehearing in

connection with the record, and is convinced that no sufficient reason is shown for a further hearing of this case.

The motion for rehearing is accordingly denied. Your decision, rejecting the applications of Abbie, Minnie and Calis Flythe, Nancy Thompson, Edmond Flythe, Alice and Eddie Lynch, Lovely Eaton, Lucy Landrum, and Anna Henry and granting the application for the enrollment of Early and Calvin Lynch as Cherokee freedmen, is hereby affirmed.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan,

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 5 to Ind. Of.

Cherokee Freedmen
D 367

Muskogee, Indian Territory, December 11, 1906

Jasper Gordin,

Nowata, Indian Territory.

Dear Sir:

In reply to your letter of December 4, in which you ask to be advised as to the action taken by the Department in the case of Lovely McGhee, nee Eaton, you are advised that the application for the enrollment of Lovely Eaton as a Cherokee Freedman was, among others, refused by the Commissioner to the Five Civilized Tribes June 28, 1906, and his decision, together with the record of proceedings had in said case, forwarded to the department on the same date, where said case is now pending.

A motion for rehearing in said case is also pending before the Department.

Respectfully,

L M B

Commissioner

Cherokee freedmen
D 381

Muskogee, Indian Territory, December 13, 1906

Rachel Martin,

Walnut, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, rejecting your application for the enrollment as Cherokee freedmen of yourself and son, Luther Martin, and granting your application for the enrollment of your son, John Martin, as a Cherokee freedman, was affirmed by the Department on November 28, 1906, and a motion for review of said case filed with the Department by your attorneys on September 7, 1905, was denied by the Department on the same date.

You are further advised that no application can be received for the selection of an allotment of land in the Cherokee Nation for your said son, John Martin, until his name has been placed on a schedule of Cherokee freedmen and the same is approved by the secretary of the Interior of which action you will be duly advised.

Respectfully,

L M B

Commissioner

Cherokees Freedmen
D 381

Muskogee, Indian Territory, December 13, 1906

Starr & Patten,

Attorneys for Rachel Martin et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, rejecting the application for the enrollment as Cherokee freedmen of Rachel Martin and Luther Martin, and granting the application for the enrollment of John Martin as a Cherokee freedman, was affirmed by the Department on November 28, 1906, and your motion for review of said case filed with the Department September 7, 1906, was denied by the Department on the same date.

For your information a copy of the Departmental decision referred to is herewith enclosed.

Respectfully,

L M B

Commissioner

Encl. B-56

Cherokee Freedmen
D 381

Muskogee, Indian Territory, December 13, 1906

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated June 28, 1906, rejecting the application for the enrollment as Cherokee freedmen of Rachel Martin and her son, Luther Martin, and granting the application for the enrollment of John Martin as a Cherokee freedman, was affirmed by the Department on November 28, 1906, and a motion for review of said case, filed by attorneys for the applicants on September 7, 1906, was denied by the department on the same date.

For your information a copy of the Departmental decision referred to is herewith enclosed.

Respectfully,

L M B
Encl. B-57

Commissioner

Cherokee F.
D. 367.

Muskogee, Indian Territory, December 17, 1906.

Alice Lynch,

Spavinaw, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, rejecting your application for the enrollment of yourself and children, Lovely Eaton and Eddie Lynch, and granting the application for the enrollment of your children Early and Calvin Lynch, as Cherokee freedmen was approved by the Department December 8, 1906, and the motion for a rehearing of your case denied.

You are advised that until the names of your children Early and Calvin Lynch, have been included in a schedule of Cherokee freedmen and approved by the Secretary of the Interior, no application will be received for the selection of land as allotments in the Cherokee Nation for them. You will be advised when their enrollment has been finally approved.

Respectfully,

H.J.C.

Commissioner.

Cherokee F.
D. 257 et al.

Muskogee, Indian Territory, December 17, 1906.

I. P. Blodsoe,
Chouteau, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the applications for the enrollment of Abbie Elythe, et al., and granting the application for the enrollment of Earl and Calvin Lynch, as Cherokee freedmen, was approved by the Department December 8, 1906, and the motion for a rehearing of said case denied.

For your information there is enclosed a copy of Departmental decision referred to.

Respectfully,

Encl. H. J. - 12.
H. J. C.

Commissioner.

Cherokee B.
D 367.

Muskogee, Indian Territory, December 17, 1906.

Wilson & Davis,
Attorneys for Lovely Eaton,
Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting, among others, the application for the enrollment of Lovely Eaton, as a Cherokee freedman, was approved by the Department December 8, 1906, and the motion for a rehearing of said case denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl. H.J.-14.
H.J.C.

Commissioner.

Cherokee V.
D 257 et al.

Muskogee, Indian Territory, December 17, 1906.

Zevely, Sivens & Smith,
Attorneys for Abbie Rlythe, et al.,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the applications for the enrollment of Abbie Rlythe, et al., and granting the application for the enrollment of Earlly and Calvin Lynch, as Cherokee freedmen, was approved by the Department December 6, 1906, and your motion for a rehearing of said case denied.

For your information there is enclosed a copy of Departmental decision referred to.

Respectfully,

Encl. N.J.-11.
H J.C.

Commissioner.

Cherokee F.
D 287 et al.

Muskogee, Indian Territory, December 17, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the applications for the enrollment of Abbie Blythe, et al., and granting the application for the enrollment of Early and Calvin Lynch, as Cherokee freedmen, was approved by the Department December 8, 1906, and the motion for a rehearing of said case denied.

For your information there is enclosed a copy of Departmental decision referred to.

Respectfully,

Encl H. J. - 10.
H. J. C.

Commissioner.

Muskogee, Indian Territory, February 9, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed an amended motion for rehearing of the consolidated Cherokee freedmen cases of Abbie Blythe, et al. This motion was filed by Levely, Givens & Smith, Muskogee, Indian Territory, and Starr & Patton, Vinita, Indian Territory, January 18, 1907. The reply of the Attorney for the Cherokee Nation filed January 26, 1907, is also enclosed.

The decision of the Commissioner to the Five Civilized Tribes dated June 26, 1906, rejecting the applications for the enrollment of all of the applicants embraced in the consolidated Cherokee freedmen cases of Abbie Blythe et al. except Mary and Calvin Lynch, was affirmed by the Department December 8, 1906 (I.R.B. 17918-1906). The Department also, on that date, denied a motion filed by Messrs. Levely, Givens & Smith, for a rehearing of the case,

Secretary-4

holding that it "has considered the motion for rehearing in connection with the record, and is convinced that no sufficient reason is shown for a further hearing of this case."

The evidence upon which this motion herewith enclosed is based seems to be merely cumulative; in fact it is supported by copies of a number of affidavits which the Attorney for the Cherokee Nation alleges are copies of affidavits filed in support of the motion for rehearing which the Department denied on December 8, 1906. There is nothing whatever to show that the motion is not made for the purpose of delay, or that with due diligence the evidence now sought to be introduced could not have been secured when the case was heard before the Commission and the Commissioner. A re-examination of the records in the case convinces the Commissioner that there is no merit to the motion, and it is respectfully recommended that the same be denied.

Respectfully,

Through the

Commissioner of Indian Affairs.

Encl. 2-06

Commissioner

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND.
107542-1906
15720-1907.

February 26, 1907.

(COPY)

The Honorable,

The Secretary of the Interior,

Sir:

Referring to Departmental letter of December 8, 1906 (L.T.D.17910-1906), denying motion for re-hearing in the application of Abbie Wlythe, et al., I have the honor to transmit herewith a communication from the Commissioner to the five Civilized Tribes, dated February 9, 1907, enclosing amended motion for re-hearing in a consolidated case, which was filed with the Commissioner on January 18, 1907, by Zevely, Givens & Smith, of Muskogee, I. T., and Starr & Patten, of Vinita, I. T.

The reply of the attorney for the Cherokee Nation was filed January 28, 1907. The evidence on which the amended motion is based is merely cumulative. It is supported by copies of a number of affidavits which the attorney for the Cherokee Nation alleges are copies of affidavits filed in support of the motion for re-hearing, which was denied on December 8, 1906. There is nothing to show that this motion is not made for the purpose of delay, or that with due diligence the evidence now sought to be secured could not have been produced when the case was first

heard before the Commission and the Commissioner.

The original application was made on May 11, 1901, and no decision was rendered until June 26, 1906, a period of more than five years, and it was not until after an adverse decision was rendered that the applicants made any effort whatever to secure the testimony that they now allege they could introduce if the case is re-opened.

The Office is of the opinion that sufficient diligence has not been shown in this case to justify a re-opening, and it therefore concurs in the recommendation of the Commissioner that the motion be denied.

Very respectfully,

U. F. Larrabee

Acting Commissioner.

IVE--ED.

COPY

D.C. 12522-1907. DEPARTMENT OF THE INTERIOR, J. For.
I.T.H. 5554-1907. WASHINGTON. LLB
L.R.S.
Direct. March 1, 1907.

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

The "amended motion for rehearing" of the consolidated Cherokee freedman cases of Abbie Elythe et al., received with your letter of February 9, 1907, and Indian Office letter of February 26, 1907 (Land 18728), copy inclosed, is hereby denied, in accordance with your recommendation and that of the Indian Office, and in view of the limited time allowed by section 2 of the act of April 28, 1906 (34 Stat., 137), for completing the citizenship rolls of the Five Civilized Tribes.

The papers in the case and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

Jesse E. Wilson

Assistant secretary.

1 inc. and 8 to Ind. Of.

A. F. Mc

3-107.

Cherokee F.
B 367.

Muskogee, Indian Territory, April 2, 1907.

Alice Lynch,

Spavinaw, Indian Territory.

Dear Madam:

You are hereby advised that the motion, filed by your attorneys, Zevely, Stevens & Smith, of Muskogee, Indian Territory, and Starr & Patten, of Vinita, Indian Territory, for a rehearing of the Cherokee freedman enrollment case of yourself and children, was denied by the Secretary of the Interior, March 1, 1907.

Respectfully,

Geo. D. Rodgers.
Acting Commissioner.

LMC

Cherokee F.
D 257, et al.

Muskogee, Indian Territory, April 2, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion filed for a rehearing of the Cherokee freedman enrollment case of Abbie Elythe, et al., was denied by the Secretary of the Interior, March 1, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Gao. D. R.
Acting Commissioner.

Encl. C-5
LMC

Cherokee P.
D 257. et al.

Muskogee, Indian Territory, April 2, 1907.

Levely, Givens & Smith,

Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed by you for a rehearing of the Cherokee freedman enrollment case of Abbie Hythe, et al., was denied by the Secretary of the Interior, March 1, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Geo. D. Rodgers.

Acting Commissioner.

Encl. C-4
LMS

Cherokee F
D 257.

Muskogee, Indian Territory April 2, 1907.

Starr & Patten,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed by you for a rehearing of the Cherokee Freedman enrollment case of Abbie Blythe, et al., was denied by the Secretary of the Interior, March 1, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Acting Commissioner

Encl. 6-30
LMG

Washoe, Indian Territory, April 6, 1909

Mrs. Mary C. Gordin,

Nowata, Indian Territory.

Dear Madam:

This office is in receipt of your letter of April 3, asking to be advised as to the Cherokee freedman citizenship status of Lovely McGhee, formerly Eaton.

In reply you are advised the records of this office show that the application for the enrollment of Lovely Eaton as a Cherokee freedman was, among others, refused by the Secretary of the Interior December 3, 1906. The motions filed for a rehearing in this case were denied by the Department. This action of the Secretary is final.

Respectfully,

L. H. S.

Acting Commissioner

Department of the Interior.

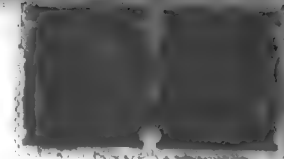
Commissioner to the Five Civilized Tribes,

MUSKOGEE, IND. TER.

*Returned to writer
Deceased*



20014
15
15



841

Mlice Lynch,

Spavinaw, Indian Territory.

Cher Fr R 874

Trans. from Cher Fr D 368

Cher Fr R 874

A 78 368

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CIVILIZED TRIBES
FILED
MAY 23 1901

[Signature]

ACTING CHAIRMAN

RECEIVED
MAY 23 1901
DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CIVILIZED TRIBES
WASHINGTON

[Handwritten note]

RECEIVED
MAY 23 1901
DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CIVILIZED TRIBES
WASHINGTON

RECEIVED
MAY 23 1901
DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CIVILIZED TRIBES
WASHINGTON

DOUBTFUL, as to Wife, Lucy:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 21st, 1902.

In the matter of the application of William Leonard Landrum for the enrollment of himself and wife as Cherokee Freedmen; said Landrum being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A William Leonard Landrum.
Q How old are you? A I am about 31.
Q What is your post office? A Chaffee.
Q What district do you live in? A Saline.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Did you ever apply to any other Nation or tribe for enrollment?
A No, sir.
Q Are you a recognized Freedman of the Cherokee Nation?
A Yes, sir.
Q Is your name on the roll of 1880? A Yes, sir.
Q Who do you want to enroll besides yourself, Mr. Landrum?
A My wife.
Q No children? A No, sir.
Q What is your wife's name? A Lucy Eaton.
Q Lucy Landrum isn't it? A Yes, sir.
Q How old is she? A About 19 years old I guess.
Q What is her father's name? A Tom Eaton.
Q He is living? A Yes, sir.
Q What is her mother's name? A Alive Lynch.
Q Is your wife a citizen? A Yes, sir.
Q Is her mother's name on the roll of 1880? A I don't know.
Q Is her name? A Yes, sir.
Q When were you married to her? A I was married about the 30th or 31st of March, 1901.
Q Have you any certificate of marriage? A Yes, sir.
Q With you? A Yes, sir.
BY L. B. BELL, Cherokee Representative: Who was your father?
A George Landrum.
BY COM'R NEEDLES: Is he living? A No, sir.
Q What is your mother's name? A Caroline.
Q Is she living? A Yes, sir.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 645, #668, Wm. L. Landrum, Saline District.

- Q Is your name on the roll of 1896? A Yes, sir.

The 1896 Census Roll of freedmen of the Cherokee Nation examined and names of applicants not found thereon.

- Q Is that (a name on the roll) supposed to be your wife?
A Yes, sir.
Q Why? A There is not any other Lucy Lynch in that District.
Q You have examined the rolls have you? A No, sir.
Q How do you know her name is on the roll of 1880? A I know it ought to be on there.
Q Her mother's name is not on there? A Her father is on there.
Q Is he living? A Yes, sir.
Q Your wife must be more than 19 years of age if she is on the 1880 roll? A I don't know no more than that she is supposed to be on there.
Q Is her father living, Tom? A Yes, sir, he has been enrolled.
Q Did your wife have any brothers or sisters? A Yes, sir.
Q What are their names? A Why her brothers is named Earl Lynch and Willie Lynch, and then she has got a brother named Steven Eaton.
Q Has she got any other? A She has got some other but I don't remember their names.

William L. Landrum, et al.--2.

Q Has she got one Jehnanna? A Jehnanna that is a girl.
Q Was Tom Eaton ever married before he married the mother of your wife? A I think not.
Q Was he ever married at all to Alice Lynch? A Yes, sir, I suppose he was; yes, sir, he was married.
Q What is your wife's oldest brother's name? A Steven Eaton.
Q What is the next one's name, next child? A Jehnanna.
Q Do you know a child named Lovely Eaton? A Yes, sir, that is her sister.
Q Your wife's sister? A Yes, sir.
Q Why didn't you say so when I asked you? A Well Jehnanna and Lovely.

ALICE LYNCH, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q Is your name Alice Lynch? A Yes, sir.
Q How old are you? A About 30 years old.
Q Are you the mother of Lucy Landrum? A Yes, sir.
Q How old is she? A About 18 or 19 years old.
Q You could not have been but about eleven years old then when she was born? A I must have been a little older than that.
Q Who was Lucy Landrum's father? A Tom Eaton.
Q Were you married to him? A No, sir.
Q Did you live with him as man and wife? A Yes, sir, we lived together.
Q About how long? A About two years.
Q Was Lucy born while you were living together? A Yes, sir.
Q Lucy was born while you and he were living together as man and wife? A Yes, sir.
Q Is she married? A Yes, sir.
Q To whom? A Leonard Landrum.
Q William Leonard Landrum? A Yes, sir.
Q Do you know whether her name is on the roll of 1880 or not? A I don't know, it ought to be.
Q Well, she was not born then was she? A I don't know whether she was born then or not, I don't know when that was.
Q Why do you think it ought to be? A All I can tell you why I think it ought to be, I have been here ever since I have been born and she has too and it looks like we both ought to be.
Q Is Lucy Landrum your oldest child? A Yes, sir.
Q Did Tom Eaton ever marry? A Yes, sir.
Q When did he marry? A Married Nettie Henry, wasn't it.
Q Did he marry Nettie Henry before Lucy Landrum was born or afterwards? A Afterwards.
Q What was Tom Eaton's wife before he married her? A Nettie Henry.
Q Do you know her father's name? A No, sir.
Q Did you ever know a man by the name of Steve Lynch?
A No, sir.
Q Did you ever know a woman by the name of Peggie Lynch?
A No, sir.
Q Well, after Tom Eaton married Nettie you married did you?
A Yes, sir.
Q When did you marry then? A Married Sam Rogers.
Q Did you know the name of Tom Eaton's oldest child by his wife?
A No, sir.
Q You don't know the names of any of Tom Eaton's children?
A No, sir, my daughter knows their names but I don't.

BY L. B. BELL, Cherokee Representative:

Q How long have you and Tom Eaton been separated?
A About 15 years I guess or longer.
Q Where were you married at? A I wasn't married.
Q You never were married? A No, sir.

William L. Landrum, et al.--3.

Q How long did you say you lived together? A About two years.
Q Did you know this man Evin Eaton? A Yes, I knowed him when he was living.
Q Where did he live? A He lived in Salint4 District.
Q Did he have any children? A I could not tell you.
Q Don't know whether he had a wife or not? A No, sir.
Q Never about his house? A No, sir.
Q Just met him out? A I seen him about Aunt Radie Lynch's.
Q You were about 11 years old when that child was born was you?
A I don't know.
Q You say you are 30 now and say the girl is 19? A I don't know my age just exactly, don't know just how old I am.
Q Well, you say you were born and raised right here in the Cherokee Nation? A Yes, sir.

BY COM'R NEEDLES:

Q But you know this Lucy Landrum here to be your daughter?
A Yes, sir.
Q She was born and raised in the Cherokee Nation? A Yes, sir.

WILLIAM L. LANDRUM, the Applicant, re-called:

Q Did you draw what is known as the strip payment money?
A Yes, sir.
Q Did you draw for your wife? A No, sir.
Q Do you know whether she drew or not, or whether anybody drew for her? A Her mother drew I suppose.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant's wife not found thereon.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's wife's name or that of her mother not found thereon.

Q Have you always lived in the Cherokee Nation? A Yes, sir.
Q Born and raised in the Cherokee Nation? A Yes, sir.
Q Is your wife, Lucy, living in the Cherokee Nation? A Yes, sir.

COM'R NEEDLES:--William L. Landrum applies for the enrollment of himself and his wife, Lucy. He is identified upon the authenticated roll of 1880 and makes satisfactory proof as to residence and will be listed for enrollment as a Cherokee Freedman.

The name of his wife cannot be found upon any of the rolls in the possession of the Commission. The averson is made that she is the child of Tom Eaton and that her mother's name is Alice Lynch. It is further averred that Tom Eaton and Alice Lynch were not married, but lived together as man and wife, more particularly specified in the testimony. It is averred that the mother of the applicant, Lucy Landrum, is Alice Lynch, and that Alice Lynch is the daughter of Abbie Blythe, who is enrolled on D. Card #267, and the mother of Lucy Landrum, to-wit: Alice Lynch, has this day been enrolled upon doubtful card #347. Reference is made to the testimony taken in the application of Abbie Blythe, the mother of Alice Lynch, who is the mother of the applicant, Lucy Landrum, and said testimony will be made a part of the record in this case and a copy of the testimony will be filed. Satisfactory proof is made as to the residence of Lucy Landrum and she will be listed for enrollment as a Cherokee Freedman upon what is known as a Doubtful card awaiting further consideration of the Commission.

Applicant makes satisfactory proof of his marriage to said Lucy Eaton on the 31st day of March, 1901, and it is filed.

William L. Landrum, of N. M.

J. D. Ressen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. D. Ressen

subscribed and sworn to before me this 23d day of May, 1902.

W. H. McQuinn

Commissioner.

VB.

J. G. 368

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
MAY 21 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 21, 1901
 Post Office Chapelle, St.
 District Sabine

1. Name _____ Age _____

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father Robert Citizenship _____

Mother _____ Citizenship _____

2. Name of wife Lucy Landrum Age 19

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father Thomas Eaton - living Citizenship _____

Mother Alice Lynch - living Citizenship _____

Names of Children:

No.	Year	Page	No.	Dist.
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

Application made by Wm. L. Landrum Photographer J. C. Roason

X Ref.

X Ref. 257

CERTIFICATE OF RECORD.

United States of America, }
INDIAN TERRITORY, } ss.
Northern District.

I, CHARLES A. DAVIDSON, Clerk of the United States Court in the Northern District, Indian Territory, do hereby certify that the instrument hereto attached was filed for record in my office the 6th day of May 1901, at M., and duly recorded in Book 15, Marriage Record, Page 317.

WITNESS my hand and seal of said Court at Muskogee, in said Territory

this 9th day of May, A. D. 1901
Charles A. Davidson, Clerk.

By

Deputy.

NORTHERN DIST. IND. TER.

FILED

MAY 6 1901

CHAS. A. DAVIDSON,
Clerk, U. S. Courts.

W. J. D. 800

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 21 1901



ACTING CHAIRMAN

CERTIFICATE OF RECORD.

United States of America, } ss.
INDIAN TERRITORY,
Northern District.

I, CHARLES A. DAVIDSON, Clerk of the United States Court in the Northern District, Indian Territory, do hereby certify that the instrument hereto attached was filed for record in my office the 6th day of May, 1901, at M., and duly recorded in Book R, Marriage Record, Page 317.

WITNESS my hand and seal of said Court at Muskogee, in said Territory

this 9th day of May, A. D. 1901.
Chas. A. Davidson Clerk.

By Deputy.

NORTHERN DIST. IND. TER.
FILED
MAY 6 1901

CHAS. A. DAVIDSON,
Clerk, U. S. Court.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 21 1901

ACTING CHAIRMAN

77. J. D. 368

FD-368

MARRIAGE LICENSE

United States of America,
INDIAN TERRITORY,
Northern District

No. 1248

To Any Person Authorized by Law to Solemnize Marriage--Greeting:

You are Hereby Commanded to Solemnize the Rite and publish the
Banns of Matrimony between Mr. *H. L. Landrum*
of *Chaffee* in the Indian Territory, aged *34* years, and
Miss *Lily Tutor* of *Chaffee* in the
Indian Territory, aged *18* years, according to law, and do you officially sign and return this
License to the parties therein named.

WITNESS my hand and official seal at *Vinita*, Indian Territory, this *28th* day of
March, A. D. 1901

Chas. A. Davidson
Clerk of the U. S. Court.

By *J. A. Chandler* Deputy.

CERTIFICATE OF MARRIAGE.

United States of America,
INDIAN TERRITORY,
Northern District

I, *Jess. Row*, a Minister of the Gospel,
DO HEREBY CERTIFY, that on the *31* day of *March*, A. D. 1901,
I did duly and according to law as commanded in the foregoing License, solemnize the Rite and publish
the Banns of Matrimony between the parties therein named.

WITNESS my hand this *11th* day of *April*, A. D. 1901

My credentials are recorded in the office of the Clerk of the United States Court, Indian Territory, Northern District,

Book *13*, Page *191*

Jess. Row
A Minister of the Gospel.

NOTE—This License and Certificate of Marriage must be returned to the Office of the Clerk of the United States Court in the Northern District,
Indian Territory, from whence it was issued, within sixty days from the date thereof, or the party to whom the license was issued will be liable to the
amount of One Hundred Dollars (see eo).

Commissioner.

Subscribed and sworn to before me this 14th of August, 1901.

Given transcript of the testimony and proceedings in the above cases.
foregoing and that said transcript is a true and complete copy of the original paper to the Commission and that the said transcript is a true and complete copy of the original paper to the Commission, being in the hands of the Commission.

V. B. -g-

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
AUG 16 1901

To be filed with case of Lucy Landrum, C. F.-D.#368.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 11, 1901.

In the matter of the application of Abbie Bly for the enrollment of herself and two children as Cherokee Freedmen.

Abbie Bly, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Abbie Bly.

Q What is your age? A I don't know my age.

Q About how old are you? A I can't tell you, my mistress is sitting here, she can tell you better than I can; I don't know my age.

Q Well, what is your post office? A Spavinaw.

Q What district do you live in? A I live in Saline.

Q Do you want to be enrolled as a Cherokee freedman? A Yes, sir.

Q Do you want to enroll anybody besides yourself? A Two children; I have six but they are all brown but two.

Q What are the names of the children? A Minnie and Calis.

Q How old is Minnie? A I have her age her in my pocket (hands Commissioner paper.)

Commissioner: Minnie Bly, 16; Calis, 12.

Q Have you ever been recognized by the Cherokee authorities as a Cherokee freedman? A Well, I don't know whether they recognized me or not.

Q Is your name on the roll of 1880? A No, sir, I think not.

Q Did you draw strip money? A Yes, sir.

The 1880 Authenticated Roll of Cherokee freedmen examined and the applicants not identified thereon.

The 1896 Census roll of Cherokee Freedmen examined and the applicants not identified thereon.

The Kern-Clifton roll examined, and the applicants identified thereon as follows:

Abbie Bly on page 158, No. 3897, Cooweescoowee District, as Abbie Blye.

Minnie Bly on page 158, No. 3899, Cooweescoowee district, as Minnie Blye.

Calis Bly on page 158, No. 3900, Cooweescoowee district, as Callus Blye.

Q Did you ever apply to any other Nation to be enrolled besides the Cherokee Nation? A No, sir.

Q Were you a slave? A Yes, sir.

Q What was your owner's name? A Bly.

Q What was his first name, his given name? A Jim Bly.

Q Was he a citizen of the Cherokee Nation? A Yes, sir.

Q An Indian? A Yes, sir.

Q Were you taken out of the Cherokee Nation during the war between the United States and the Confederacy? A Yes, sir, I went out.

Q Where did you go? A I went in the State.

Q What State? A Well I don't know what state, I just went into the State.

Q North or South? A I went North.

Q To Kansas I except? A Yes, sir, I expect so.

Q Well, when did you come back from Kansas to the Cherokee Nation? A I came back in the fall of '66.

Q Have you been living here ever since, in the Cherokee Nation? A Yes, sir.

Q Do you know why your name isn't on the roll of 1880? A No, sir, only just because they wouldn't put me there is all I know.

Q You are sure you came back in '66? A Yes, sir.

Q Been living here ever since? A Yes, sir.

By W. W. Hastings, Cherokee Attorney: You belonged to Jim Bly before the war? A Yes, sir.

A. B.--2.

Q He sold you to a man in Missouri? A No he didn't he never sold me to no man any Missouri.

Q Before the war? A No he didn't.

Q You lived in Missouri? A Well he never sold me to no man and I never lived there that I knew of.

Q You lived before the war in Missouri? A No, sir.

Q Did you live there during the war in Missouri? A Well my mistress is back there, you can call her, I was too young to tell anything about that, she is here to answer for that.

Q How old are you now? A I can't tell you my age, she will answer for that, I told you as far as I could.

Q You were grown when the war came up? A I was a nurse in the house.

Q Who did you come back to the Cherokee Nation with after the war? A I came back with the white family.

Q What white family? A With a family by the name of Dodson, or some such name that.

Q You don't know one year from another? A No, sir, don't know one year from another only when I hear it.

Q Have you heard what this year is? A Well I expect I have.

Q What is it? A I can't remember, I guess I have heard what year it is if I could remember it.

Q Do you know any other year except '66? A Yes, when I hear them called.

Q What other year have you heard called? A I am not supposed to tell you because I didn't keep no record of it.

Q You don't know a single one? A No, sir, I don't.

Q Who told you to say '66 when you came in here? A Nobody only myself, I know that is what the people said when the party came here at that time.

Q You never heard anybody call a single date since then?

A Yes, I guess I could if I could read and write like you can, I guess I could remember something about it.

Q A man by the name of Dodson brought you? A Yes, by the name of Dodson.

Q Did you see on this Frisco train? A No, sir, there wasn't any trains here, you know there wasn't any trains here.

Q Where did you come from? A I don't say where I come from as near as I can.

Q Where is that? A I told you I come from Kansas.

Q What place in Kansas? A I don't know what place.

Q You don't know anything about that? A No, I told you just as near as I can tell you now.

Q How did you come, in a wagon? A Yes, sir, come in a wagon.

Q Anybody else besides the man come with you? A Yes, sir, his wife was along.

Q What was her name? A I never asked her name only I reckon her name was Mrs. Dodson, that was her husband's name.

Q Where did you come to in the Cherokee Nation? A Why we camped up on Grand river, they camped there a while.

Q What part of the Grand river? A I don't know what part, just the Grand river is all I can tell you, I don't know what part, but I never thought I would ever have to give any record of it, I never thought any more of it.

Q You were not married then? A No, sir, I wasn't.

Q How long did you camp up there with them? A Well, I don't know how long I camped.

Q A few weeks or a few months? A I don't know, because it has been so long I can't tell you how long I camped.

Q Near what point, what town or place was that? A There wasn't no town.

Q Just camped on the river? A Yes, sir.

Q Anybody live around there? A Well, I suppose there was.

Q You never knew any of them? A No, sir, I didn't.

Q Well, where did you go from there? A On Grand river down here back on the river.

A. B.--3.

Q Well, into what neighborhood? A Down here close to the Island Ford, they call it, or Tanyard Ford, or something.

Q About how many years have you been down there? A I can't tell you how many.

Q Three or four? A No, I have been there for years, ever since I came here.

Q Did you stay as much as a year up above here? A Well now I have answered all the questions I can answer you.

Q I mean in that camp? A Did I stay a year; I told you I don't know how long I stayed, I camped there, I don't know whether it was a year or not because I didn't keep any record of it.

Q Was it longer than a month? A I suppose it was longer than a month, I know I was there quite a little while.

Q What were the people doing while you were camping up there, Dodson and his wife? A Nothing only walking around, camping up there, they were moving.

Q You don't know where they got provisions? A I got it from them.

Q You don't know where they got it? A No, I don't bought it I reckon.

Q Any other colored people with you? A No, sir.

Q What became of these people? A Now I can't tell you, I don't know where they went.

Q You don't have any idea how long you stayed there? A No, sir.

Q You were married; you have been married? A Yes, sir.

Q What was your husband's name? A His name was Hilderbrand.

Q And you and him were married before then? A No, sir, I have answered you all the questions I can answer you, I have none answered all that is required I think.

Q What is your oldest child's name? A She will tell it in when she comes in.

Q Don't you know?

Commissioner: Tell her name.

A Her name is Anna.

Mr. Hastings: Where was Anna born? A She was born the year after peace was made.

Q Did you have Anna along with you? A She was a little bit of a baby; I brought her here a baby.

Q You brought her here a baby? A Yes, sir.

Q Your husband wasn't along you state? A No, I didn't have any

Q Where was Alice born; did you have a child named Alice?

A Alice was born in the Nation.

Q I say where was Alice born? A Born in the Nation, I can't tell you.

Q What part of the Nation? A I don't know, I have told you in the Nation, I don't know what you want to ask people so many questions for when they have told you.

Q You don't know what place? A No, I don't remember what place she was born in the Nation.

Q Was she born up there where you were camping? A No, sir, she wasn't born in the camp.

Q You don't know what place, what house, with whom you were living? A I have done answered you all I can answer you.

Q You don't know? A I didn't know I have to tell you everywhere they were born at.

Commissioner: Where was Alice born; you know about where she was born? A Yes, sir, she was born on the river in an old house there.

Mr. Hastings: In what settlement was that; who were your neighbors?

A Well, I had several neighbors.

Q At the time Alice was born? A Part of them is dead and the others was young.

Q Then that are living? A Then that are living are so young they can't tell anything about it.

Q What are their names? A Aunt Nancy was one of them, and Aunt Charlotte was another.

Q What were their other names? A Aunt Nancy Lynch and Aunt Charlotte Adams.

A. B.--4.

Q You have been living down there on the river ever since, have you? A Yes, sir.

Q Near Island Ford or Lynch's prairie; you are living there now?

A Yes, sir.

Commissioner: Have you got any witnesses? A Yes, sir, there is my mistress sitting there.

JENIMA BLY, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Jenima Bly.

Q About what is your age? A 68.

Q What is your post office? A Vinita.

Q Are you a Cherokee citizen? A Yes, sir, by blood.

Q Do you know Abbie Bly? A Yes, sir.

Q About how old is she? A She was about two or three years old, I don't know which, when I married in '49; she was just a little girl.

Commissioner: About 56 years old.

Q Was she a slave? A Yes, sir.

Q Who did she belong to? A She belonged to Mrs. Tucker, Polly Tucker first.

Q Did she ever belong to your family? A Yes, sir, her mother belonged to Pollie Tucker and afterwards we bought her from Polly Tucker's daughter, Mr. Bly did.

Q Mrs. Bly, did Abbie go out of the Territory during the war?

A We all moved out.

Q North? A We moved out just across over the line into Missouri.

Q Abbie went along with you? A Yes, sir, Abbie was with us.

Q When did Abbie return? A She came home in '65 just over in the State of Missouri and then I don't know anything more of her till I found her in Vinita in '79; that was the time my oldest daughter died in '79, and she came to us, came in, that is the reason I knew it was in '79 that she came back in, account of the death of my daughter; she was in the Nation at that time but I don't know how long before.

Q You don't know then how soon she returned to the Nation after you saw her in Missouri? A No, sir, she was trying at that time to make her way back.

Q That was in '65? A That was in '65.

Q Over in Newton county, Missouri, she was trying to make her way back? A She was trying to make her way to the Nation at that time and we were not coming back and she went on and I don't know where she went and I don't know what became of her until I saw her here in '79; she was living over here in this neighborhood that she spoke of, down on the river.

Q She has been living then in the Cherokee Nation since that time?

A I know she has been living in the Cherokee Nation ever since '79 for I have seen her occasionally, once or twice a year.

Q But where she was from '65 to '79 you don't know? A No, sir.

Mr. Hastings: Your husband was named Jim Bly? A Yes, sir.

Q Is he alive? A I don't know whether he is or not, he has been dead to me ever since '79; I have never tried to force myself in regard to him; he outedly told me 'I can't support you all and I will not do it and you can starve to death for all I care.'

Q Well, as we want in the facts? A You might have known if Mr. Bly had been living and had been living with me, he would have been living with me.

Q Isn't it a matter of fact that Mr. Bly sold this girl out to a man in Missouri before the war came up? A No sir, he didn't; if he swore that he is mistaken.

Q He didn't sell her before the war came up? A If he swore that he is mistaken, he made a mistake if he swore that.

Q You know he owned her at the time the war came up? A I know Mr. Hastings he owned her in '65 for Mrs. Marks was my baby in '65 and this was the nurse for Mrs. Marks.

A. B.--5.

Q Where did you live at that time? A Mr. Bly had gone over in Missouri to settle up his father's business that he died and left unfinished over there, and when we were there the war came up.

Q When did you go over to Missouri? A Before the war.

Q How long? A I didn't keep any dates.

Q About how many years? A If you will let me I will go and get my family record and let you examine it.

Q I don't care if you get forty of them at home, I just want you to remember it? I don't care for the month and week and day but I want to know how long to the best of your recollection before the war came up you went over there? A We went over there temporarily, we didn't withdraw from the Nation to go over there.

Q About how long were you over there temporarily before the war came up? A We were over there two or three years, I don't know, I am not positive.

Q To the best of your recollection? (No response.)

CAP HICKS, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Filmore Hicks.

Q What is your age? A 55.

A Are you a citizen of the Cherokee Nation? A Yes, sir.

Q By blood? A Yes, sir.

Q Do you know Abbie Bly the applicant? A Yes, sir.

Q Do you know where she was in '66? A No, sir.

Q When did you know her? A I have known her about 25 or 26 years.

Q Did you ever become acquainted with her till after '66?

A No, sir.

Q Do you know whether she was a slave or not? A No, sir.

Q Do you know when she returned to the Cherokee nation? A No, sir.

Mr. Hastings: You live down here near the Lynch settlement?

A I did, yes, sir.

Q You lived there from '65 on up to when did you move to Vinita?

A Just this last fall, just one or two years I lived there on Rock Creek.

Q You have known this woman for 25 or 26 years? A Yes, sir, to the best of my recollection.

Q How far did she live from you down in that settlement when you first knew her? A About four miles.

Q That is when she first came there to your recollection?

A That is the first I ever seen her and knew of her.

h COMMISSIONER: Abbie Bly applies for the enrollment of herself and two children, Minnie and Calis. From an examination of the authenticated roll of 1880, her name is not found thereon, nor the census roll of 1896, but her name is found upon the Kern-Clifton roll. The names of her children, Minnie and Calis, are found upon the Kern-Clifton roll. She makes satisfactory proof of residence, and will be listed for enrollment as a Cherokee Freedman upon a doubtful card for the further consideration of the Commission. When the Commission arrives at a conclusion in her case, she will be notified by mail.

Brude C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Brude C. Jones.

Sworn to and subscribed before me this the 14th of May, 1901.

(Signed) T. B. Needles,

Commissioner.

A. B. ---

J. D. Rosson, being first sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in the above case.

J. D. Rosson

subscribed and sworn to before me this 14th of August, 1901.

Commissioner.

BA T. B. Bell Cherokee Representative:

Q Where's V On Grand River in the Cherokee Nation.
Q The first time you saw her was in 1863 V Yes' sir, in camp.
Q Was she lived here continuously ever since? V Yes' sir, ever
Q in the Cherokee Nation? V Yes' sir.
Q Where was she in 1863 V On Grand River with some white people
Q the way, V No, sir,--I don't know.
Q Was Vpple Blanche out of the Cherokee Nation before 1863 during
Q was he in Indian? V He was briefly white.
Q Was he a citizen of the Cherokee Nation? V Yes' sir.
Q About six years before for V 11th Blanche.
Q Was she a slave? V Yes' sir.
Q some people the way.
Q How long have you known her? V I have known her a long time.
Q Do you know Vpple Blanche, the abjectant here? V Yes' sir.
Q I cannot tell you, I guess the money.
Q Was she a recognized citizen of the Cherokee Nation?
Q What is your best office address? V Guntown.
Q How old are you? V 40.
Q What is your name? V 11th Blanche.

Witness for the abjectant, testified as follows:
JIM VERNER, called and sworn to by Commissioner J. B. Needles, as a

Abjectant and the Representative of the Cherokee Nation

Vpple Blanche, Cherokee Freedmen, and the abjectant of the Cherokee Nation
SUBPENAED TESTIMONY

ALINIA, I. T. S. 12th, 1901.
COMMISSIONER TO THE CHIEF, CHIEF, CHIEF, CHIEF,
DEPARTMENT OF THE INTERIOR,

To be filed with case of 'Involuntary', C. B. D. 4368.

7 5 368.

To be filed with case of Ino Landrum, C. P. D. #368.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., May 15th, 1901.

SUPPLEMENTAL TESTIMONY of the mother of the application of
Abbie Blythe, Cherokee Freedman, Card #257.

Applicant and the Representative of the Cherokee Nation present
JIM ALBERTY, called and sworn by Commissioner T. B. Needles, as a
witness for the applicant, testified as follows:

Q What is your name? A Jim Alberty.
Q How old are you? A 70.
Q What is your post office address? A Chouteau.
Q Are you a recognized citizen of the Cherokee Nation?
A I cannot tell you, I drew the money.
Q Do you know Abbie Blythe, the applicant here? A Yes, sir.
Q How long have you known her? A I have known her a long time,
some before the war.
Q Was she a slave? A Yes, sir.
Q Whom did she belong to? A Jim Blythe.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Was he an Indian? A He was pretty white.
Q Was Abbie Blythe out of the Cherokee Nation before 1866, during
the war? A No, sir, -- I don't know.
Q Where was she in 1866? A On Grand river with some white people
in camps.
Q In the Cherokee Nation? A Yes, sir.
Q Has she lived here continuously ever since? A Yes, sir, every
time I seen her.
Q The first time you saw her was in 1866? A Yes, sir, in camps.
Q Where? A On Grand river in the Cherokee Nation.

By L. B. Bell, Cherokee Representative:

Q Whereabouts on Grand river did you see her? A Some where near
Carey's Ferry.
Q How long did you stay with her there? A I didn't stay with her,
I just passed by there and she asked me the way to go to Mrs. Blythe.
Q And you just passed on and didn't see her any more? A No, sir.
Q What was you doing there? A I was just passing by there that
was all.

Chas. von Weise, being sworn states that as stenographer to the
Commission to the Five Civilized Tribes he reported in full all the
proceedings in the above cause and that the foregoing is a full,
true and correct transcript of his stenographic notes therein.

(Signed) Chas. von Weise.

Subscribed and sworn to before me this 20th of May, 1901, at
Vinita, I. T.

(Signed) T. B. Needles,

Commissioner.

J. O. Rosson, being first sworn, states that as stenographer
to the Commission to the Five Civilized Tribes he made the foregoing
copy and that same is a true and complete copy of the original trans-
cript of the testimony and proceedings in the above case.

Subscribed and sworn to before me this 14th of August, 1901.


Commissioner.

N
F. D.

368

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on *Suey Sandrum*

by delivering a true copy thereof on the
25- day of *Sept* A. D. 1901

Given under my hand this 25-
day of *Sept* A. D. 1901
John Parks
Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the
day of , 190...

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190...

Subscribed and sworn to before me
this

DEPARTMENT OF THE INTERIOR, bldg.
COMMISSION TO THE FIVE CIVILIZED TRIBES-

FILED
OCT 2 1901

Chappe

ACTIVE CHIEF

NOTICE!

IN THE MATTER OF the application of Lucy Landrum
for enrollment as Cherokee Freedmen:

Case No. F. D. 360

To Lucy Landrum Chaffee I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory.
Indian Territory, on Oct. 1st 1901 at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 23 1901

L B Bell

W. W. Hastings

J. D. Davenport
Attorneys for the Cherokee Nation.

CR-3036K

Supervised and under the control of the members of the

It is the duty of the members of the Department of the Interior to see that the laws of the United States are faithfully executed and that the public lands are properly managed.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
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ACTING CHAIRMAN



Commissioner

File with C.F. D-368, Lucy Landrum.

SUPPLEMENTAL: C. F. D-287.

Department of the Interior,
Commission to the Five Civilized Tribes,
Yinita, I. T., Oct. 2, 1901.

In the matter of the application of Abbie Blythe et al.
for enrollment as Cherokee Freedmen.

TESTIMONY ON BEHALF OF CHEROKEE NATION.

Appearances:

J. S. Davenport, Esq., of Attorneys for Cherokee Nation;
L. P. Blessee, Esq., agent for the applicant.

JAMES C. CHILDERS, being sworn by Commissioner Breckinridge,
testified as follows:

BY COM'R BRECKINRIDGE:

- Q Give your full name? A James C. Childers.
Q How old are you? A 45.
Q What is your post-office? A Catale at present.
Q In the Cherokee Nation? A Yes sir.
Q How long have you lived in the Cherokee Nation? A Well I
couldn't hardly answer the question properly.
Q Have you lived here all your life? A Might near, yes, sir, well
I will just simply state for the last eight years, the last stay.
Q Where were you born? A I don't know where I was born whether
in the Cherokee Nation or Missouri, but right on the line.
Q How old were you when you first remembered the Cherokee Nation?
A Well I don't know, three or four years old I reckon; best of my
recollection.
Q Where have you lived other than in the Cherokee Nation?
A Well I have lived a little in Kansas and a little in Colorado
and Missouri.
BY MR. DAVENPORT:
Q Where were you living from '55 until '60, Mr. Childers?
A Living right on the line of Missouri, inside of the state.
Q Near what place? A Elk Mills.
Q Was there any post-office known as any place? A Elk Mills was
the post-office.
Q Did you know James Blythe along in '50? A Yes sir.
Q About when did you first get acquainted with him? A Well, to the
best of my knowledge first acquaintance was about '59 or '60 that I
knewed Jim Blythe when I saw him.
Q Where was he living at that time, if you know? A Enterprise,
Missouri.
Q How far was that from the place where you lived? A Between a
mile and a half and 2 miles.
Q Was he engaged in any business over there at that time? A Yes
sir, in the mercantile business.
Q Running a store at Enterprise, Missouri? A Yes sir.
Q Do you know whether or not he had any slaves? A There was a
couple there, I was always told they belonged to him and his wife.
Q Did you know their names? A I personally know the name of the boy
or man, Negro was his name; I believe they called the girl or woman
Abbie, but I am not quite positive about that.
Q From the time you got acquainted with Mr. Blythe until the break-
ing out of the war, where did he continue to live, do you know?
A From the time I first got acquainted with him until during the
war he lived at the same place, Enterprise, Missouri.
Q You don't know what became of Blythe during the war? A He went
to Texas or somewhere South side of the war.
Q Did you know him after the war before he came to the Territory?
A Yes sir.
Q Did he live in Missouri now after the war, if you know? A

Abbie Blythe et al (sup'l) 2

Q You don't know where he lived? A No, he lived somewhere South.
BY MR. BLANDER:

Q You are not positive whether he owned this Abbie or not at that time? A No sir, I won't say that he owned them; it was my understanding that he and his wife did, but I don't know it.

Q Were they recognized Cherokee citizens at that time? A Well they were recognized Cherokees, but they was what we term citizens of the State at that time.

Q Do you know whether he was ever re-admitted or not, afterwards? A I understood he was; after the war he and his wife were re-admitted to the Cherokee Nation.

Q You don't know that of your own knowledge? A No sir.

Q What was the best of your knowledge at that time, that they were citizens of the Cherokee Nation or citizens of Missouri? A Best of my knowledge as I understood they came to Missouri and bought out this farm, that property there and was doing business, and after the war broke, come up, Mr. Blythe himself went South I think with the army and when he come back he moved into the Indian Territory, and was re-admitted. That has been my understanding.

Q What was Mr. Blythe's wife's name? A Jemima Rogers.

Q Do you know a Mr. Tucker, there, Polly Tucker, did you know a Polly Tucker? A Not by that name, no sir.

Q Do you know what time Mr. Blythe went out of the Cherokee Nation; what time was it you saw him in Missouri, that you are speaking of now? A First?

Q Yes? A I couldn't tell you just what time, it was before '60 though.

Q You don't know whether he moved into the Territory then during the war or not? A No sir, I don't think he did; I think his family went to Neosho, Missouri in that vicinity in time of the war and Mr. Blythe went South; he was in the army; that's my understanding, I don't know now though.

Q If Jemima Blythe states that they moved out of the Territory during the war she is mistaken? A Yes sir.

Q She says here, we all moved in just across from the line into Missouri; Abbie went along with us. A She is mistaken or I am one, badly.

Q Well now we want that matter settled, because here is a woman that stands mighty fine character from what I understand, that states positively that they moved out after the war? A After the war?

Q Yes sir, during the war rather, and that they took Abbie along with them and Abbie was a slave, and that's a very serious point for investigation if Abbie was a slave during the war when the war broke out, they were citizens of the Cherokee Nation? A I have nothing else to say; that's all I know about it.

Q You won't be positive she wasn't here? A In time of the war?

Q Yes? A She might have been here or not.

BY MR. DAVISPORT:

Q You know that they were living out there and Mr. Blythe was engaged in the mercantile business prior to the breaking out of the war? A Yes sir.

Q And he continued to live there until the war broke out? A He continued to live there until he was broke up during the war.

Commissioner Breckinridge: This will be filed as supplemental testimony in the case of Abbie Blythe, et al., Cherokee Freedmen Doubtful case 257, and also in Cherokee Freedmen Doubtful cases 206, 217 and 327 and 328.

File with case of Lucy Lanarum, C.F.-D.#668.

Supl. C.F.-D.#237.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VENITA, I.T., OCTOBER 24, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
Abbie Blythe as a Cherokee freedman, introduced on part of the Cherokee Nation:

APPEARANCES:

Mr. I. P. Blodson, Agent for applicant;
Mr. J. S. Davenport, of Counsel for Cherokee Nation.

JAMES C. BLYTHE, being duly sworn and examined by Commissioner Breakinridge, testified as follows:

Q Give me your full name, Mr. Blythe? A James C. Blythe.
Q How old are you? A Well, according to the record I was born in 1824, July 7th.
Q What is your post office? A Bartlesville.
Q How long have you lived in the Cherokee Nation? A I have been principally raised here.
Q Pretty much all your life? A Yes, sir.
Q Were you born here in the Nation? A I was born in the old Nation.
Q Came here with the Cherokees when they moved to this country?
A Yes, sir, I moved here with the Cherokees when they moved here.
MR. DAVENPORT: Did you own any slaves prior to the breaking out of the Civil War, Mr. Blythe? A Yes, sir.
Q Where were you living at the time the war broke out? A I was living in McDonald County.
Q What State? A Missouri.
Q About how many years had you been over there in McDonald County, Missouri, before the breaking out of the war? A I think I moved there in '56, to the best of my knowledge it was in '56.
Q Well, did you have any slaves over there with the firm the time you moved there up to the time the war broke out? A Yes, I had one slave that I moved up to that place.
Q Did you have a slave when you moved there by the name of Abbie?
A Yes, sir.
Q You owned a slave prior to the breaking out of the war?
A Yes, sir, I bought one after I moved to that place, I don't know it must have been a year or two afterwards, after I moved there.
Q A year or two after you moved to Missouri you bought this slave Abbie? A Yes, sir.
Q Now what became of Abbie; did you continue to own her up until the time she was freed? A I sold her during the war.
Q Who did you sell her to? A I sold her to Jim Lanning, he was Clerk of the Court there.
Q What became of him? A I suspect he is dead now.
Q What was his post office, Mr. Blythe? A At that time Pineville, Missouri, McDonald County.
Q Did you know any man by the name of Dodson who lived near you in McDonald County, Missouri? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A No, sir, he never came here that I know of.
Q Where were you living when the war closed? A My residence was at the same place.
Q Your residence was at Enterprise? A Yes, sir.
Q You had enlisted during the war; been in service? A Yes, sir, I was a soldier during the war.
Q Well, after you sold Abbie when did you next see her and where was she when you saw her? A I was at Enterprise, McDonald County.

Q About what year was that, if you remember? A Best of my recollection it was between 1862 and '3.

Q I am speaking now not when you sold her, when you saw her after you sold her? A Well, it was the spring of '66, she came to my residence there and wanted to come back as before and I was broke up and told her she was as free as I was and look out for herself.

Q When did you move back to the Cherokee Nation after the war?

A I moved back in '68.

Q Where did you locate when you came back? A Tahlequah.

Q How long did you live at Tahlequah before you left there, Mr. Blythe, about how many years? A I lived there from '68 until '71.

Q When you left there in 1871 to what point did you come?

A I come to this place.

Q From the time you moved from Missouri until you came to Vinita had you seen Abbie, this slave you had owned prior to the war?

A No, sir, I never had saw her.

Q Did you see her after you moved to Vinita? A Yes, I saw her.

Q When was it with reference to the time you moved to Vinita and where did you see her? A She came to me at this place and she said she was hunting me up to find the best place to locate and I told her how she had a right to locate there and I told her to pick on a place and go to work, that I supposed it would be all right, and she located out here east of Little Cabin.

Q Did you have any conversation with her as to where she had been?

A I asked her the question where she had been and she said she had been up in Missouri and I said where did you come from here; I said did you just come in and she said yes; and I said where did you come from and she said Granby.

Q Now, is there anything that fixes the time with reference to Vinita after you came here? A It was after the railroad came here that I came to this place.

Q Which road do you have reference to? A This Texas road.

Q M. K. & T.? A Yes, sir, the road wasn't put there at that time.

Q You have known her since that time? A Yes, sir, she has been here ever since; I see her here frequently, at least she told me she was living out there.

Q From whom did you buy this Abbie if you remember? A I bought her from a nephew of mine that lives here in the Nation.

Q Did he live in the Nation at the time? A Yes, sir.

Q That was in the '50s? A Riley Blythe was the man's name I bought her from.

Q Was he a citizen of the Cherokee Nation? A Yes, sir.

Q And she was living with you in the State of Missouri at the breaking out of the war? A Yes, sir.

Q And you sold her? A I sold her during the war.

MR. BLEDSON: Mr. Blythe, you state that you sold this woman, Abbie, during the war; do you know what time you sold her? A Well, as I stated it was between '62 and '3, it was before the Proclamation came out. I don't suppose I could have sold her after she was freed.

Q I didn't know but what you had sold her after the expiration of hostilities; she was your slave then up to the commencement of the war in '61? A Yes, sir.

Q And you were a Cherokee citizen at that time? A I was a Cherokee but I wasn't living in the Cherokee Nation at that time.

Q She was your wife, Mr. Blythe? A She was a Rogers.

Q What was her name? A Jenken.

Q A few questions here "Is it a matter of fact that Mr. Blythe sold this girl out to a man in Missouri before the war"; answer: "No, sir, he didn't; he is aware that he is mistaken;" consequently there seems to be difference of opinion. "He didn't sell her before the war came up, if he swore that he is mistaken." "You know he owned

her at the time the war came up I know, Mr. Hastings, he owned her in '65 for Mrs. Marks was my baby in '65 and this was the nurse for Mrs. Marks". A Yes, I know when the war came up; I don't know that I made a statement of that kind.

Q Did you or not, Mr. Blythe, testify before the Kern-Clifton Commission that you sold her in 1865? A I never sold her until the war came up.

Q Didn't you state before the Kern-Clifton Commission that you sold this woman in 1865? A No, sir, never did; it is wrong print if I did.

Q Isn't it a fact now that she nursed Mrs. Marks as stated here by your wife? A I guess she did.

Q Whom did she belong to at that time? A At the time she nursed Mrs. Marks?

Q Yes? A She belonged to me.

MR. DAVENPORT: Well, in 1865 she nursed Mrs. Marks and belonged to you? A It was in 1862; I think she was mistaken in the year.

Q Well, you know whether or not positively she belonged to you in 1865 after the Emancipation Proclamation? A Yes, sir.

Q The testimony to which your attention was called would she nurse Mrs. Marks or was your slave in 1865? A Oh, shucks, that is all non sense.

Q The Emancipation Proclamation was issued before that time?

A Yes, sir.

MR. BLEDSOE: Mrs. Marks is your daughter? A Yes, sir.

Q Do you know when she was born? A In '62.

Q Then she was not a baby in 1865? A If she was she was a big baby.

MILTON M. CAULK, being duly sworn and examined by Commissioner Brockinridge, testified as follows on behalf of Cherokee Nation:

Q Give me your full name? A Milton M. Caulk.

Q How old are you? A 53 years old.

Q What is your post office? A Chelsea.

Q How long have you lived in the Cherokee Nation? A About 12 years.

MR. DAVENPORT: Where did you live prior to coming to the Cherokee Nation, Mr. Caulk? A Lived in Missouri.

Q What place in Missouri? A What is called old Enterprise, in McDonald County, Missouri.

Q Where were you living prior to the breaking out of the war?

A I was living in Missouri.

Q Were you living near Enterprise? A Yes, sir.

Q Did you know James Blythe prior to the breaking out of the war?

A Yes, sir.

Q How his slaves or any of them at that time? A Yes, sir, he had two.

Q What were their names? A Abbie Blythe and Montie.

Q Did you know a Scott family over there and had by the name of Dodson? A Yes, sir.

Q Do you know whether Dodson ever moved to the Cherokee Nation?

A No, sir.

Q You are a citizen of the nation? A Yes, sir.

Q Do you know whether or not he was a citizen of the nation or claimed to be a citizen of the nation? A No, sir, he never claimed to be a citizen.

Q Do you know whether Abbie Blythe was disposed or to any one during the war by Mr. Blythe? A I did not, only hearsay.

Q How long did you know her before the war, had she been living in the state of Missouri? A To the best of my knowledge I think about '55 was when I first got acquainted with her, '55 or '6,

latter part of '55 I think.

Q Do you know with whom she was living or to whom she belonged when the Emancipation Proclamation was issued? A My information was she belonged to Mr. Blythe.

Q You don't know whether he disposed of her? A No, sir.

Q Well, do you know anything about her after the war? A No, sir.

Q Well, all you know is that she was living with Mr. Blythe in the State of Missouri before the war? A Yes, sir.

Q Along in the '50s? A Yes, sir.

This will be filed as additional testimony in Cherokee Freedmen doubtful cases #257, #306, #217, #367, and #358.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 14th, 1901.

[Signature]

Commissioner.

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and had received information of the anti-Semitic hopes expressed by the first Secretary in his letter and its enclosing for the consideration of the five countries which he could not discuss at the present time and would have to be dealt with later.

Chapter

1901-1902

Oct. 2, 1934

AGING CHAIRMAN

File with Cherokee Freedman, B-365, Lucy Landrum.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 4, 1901.

In the matter of the application of Abbie Blythe for enrollment as a Cherokee Freedman.

Supplemental testimony on behalf of the applicant.

Appearances:

I. P. Blodgett, Agent for the applicant;
W. W. Hastings, of counsel for Cherokee Nation.

Abbie Blythe, being duly sworn by Commissioner Needles, testified as follows:

Mr. Blodgett: What is your name? A. Abbie Blythe.

Q How old are you? A I don't know.

Q To whom did you belong when the war ceased? A I belonged to Miss Blythe.

Q Did your nurse Mrs. Marks that is now? A Yes, sir.

Q Were you nursing Mrs. Marks, or was that what you were doing when you left them? A I was her nurse when I left her, nursed Fanny, her oldest child.

Q Where did you go when you left here? A I went in Kansas somewhere, as I stated before.

Q Who did you live there with? A I lived there with a family by the name of Dodson.

Mr. Hastings: Where were you, went to Missouri when you left?

A I don't know whether it was in Missouri or what.

Q You don't know where you were? A Well I said I told you.

Q Well, do you think you were in Missouri when you left and went off with this man, called Dodson? A Yes, sir, I came home here.

Q Weren't you in Missouri when you left? A Yes, sir.

Q How long had you been in Missouri when the war came up? A I don't know.

Q 20 years? A No, sir.

Q Ten? A I don't know.

Q Well, the best of your judgment? A Well I don't know, I haven't got any judgment about it because I don't know.

Q Well, was you up there five years? A I don't know.

Q Had you been there more than that? A I don't know.

Q You have got no judgment at all about it? A No, sir.

Q You know what you were in Missouri when the war came up?

A No, I wasn't, I was in the Nation here when the war came up, at home.

Q Where? A Well I don't know whereabouts, I told you before that I don't know the place from another.

Q You know Missouri from Arkansas? A No, only I have never been to Arkansas.

Q You know Missouri from the Cherokee Nation? A This is the Cherokee Nation.

Q Well, do you know Missouri from this? A Yes, I guess I do.

Q Guess you do? A I have answered all I can answer.

Q That is all you want to answer? A Yes, I don't want to answer no more.

Q Ever live in Missouri? A (No response).

Q Did you ever live in Missouri at any time? A Well now I have done answered you.

Commissioner: Well answer it again, yes or no. A Of course when I came from there when I came back home.

Commissioner: This testimony will be filed with the original case, and with the following cases: B-257, B-306, B-317, B-367, and B-386.

Since C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

C. Jones

Sworn to and subscribed before me this 15th of October, 1901.

[Signature]

Commissioner.

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BUREAU OF INDIAN AFFAIRS

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The following is a list of the names of the persons who have been appointed to the various committees of the Board of Directors of the City of New York, for the year 1900:

Committee	Members
Committee on the Administration of the City	Mr. J. C. Smith, Mr. J. D. Jones, Mr. J. E. Brown, Mr. J. F. Green, Mr. J. H. White, Mr. J. K. Black, Mr. J. L. Grey, Mr. J. M. Gold, Mr. J. N. Silver, Mr. J. O. Copper, Mr. J. P. Lead, Mr. J. Q. Zinc, Mr. J. R. Iron, Mr. J. S. Steel, Mr. J. T. Tin, Mr. J. U. Glass, Mr. J. V. Paper, Mr. J. W. Cotton, Mr. J. X. Wool, Mr. J. Y. Silk, Mr. J. Z. Flax, Mr. J. AA. Linen, Mr. J. BB. Hemp, Mr. J. CC. Jute, Mr. J. DD. Canvas, Mr. J. EE. Leather, Mr. J. FF. Rubber, Mr. J. GG. Gutta Serena, Mr. J. HH. Wax, Mr. J. II. Resin, Mr. J. JJ. Asphaltum, Mr. J. KK. Bitumen, Mr. J. LL. Tar, Mr. J. MM. Pitch, Mr. J. NN. Oil, Mr. J. OO. Grease, Mr. J. PP. Butter, Mr. J. QQ. Cheese, Mr. J. RR. Meat, Mr. J. SS. Fish, Mr. J. TT. Fowl, Mr. J. UU. Game, Mr. J. VV. Bees, Mr. J. WW. Swarms, Mr. J. XX. Insects, Mr. J. YY. Reptiles, Mr. J. ZZ. Amphibians, Mr. J. AAA. Fishes, Mr. J. BBB. Mollusks, Mr. J. CCC. Crustaceans, Mr. J. DDD. Arachnids, Mr. J. EEE. Insects, Mr. J. FFF. Birds, Mr. J. GGG. Mammals, Mr. J. HHH. Reptiles, Mr. J. III. Amphibians, Mr. J. JJJ. Fishes, Mr. J. KKK. Mollusks, Mr. J. LLL. Crustaceans, Mr. J. MMM. Arachnids, Mr. J. NNN. Insects, Mr. J. OOO. Birds, Mr. J. PPP. Mammals, Mr. J. QQQ. Reptiles, Mr. J. RRR. Amphibians, Mr. J. SSS. Fishes, Mr. J. TTT. Mollusks, Mr. J. UUU. Crustaceans, Mr. J. VVV. Arachnids, Mr. J. WWW. Insects, Mr. J. XXX. Birds, Mr. J. YYY. Mammals, Mr. J. ZZZ. Reptiles, Mr. J. AAAA. Amphibians, Mr. J. BBBB. Fishes, Mr. J. CCCC. Mollusks, Mr. J. DDDD. Crustaceans, Mr. J. EEEE. Arachnids, Mr. J. FFFF. Insects, Mr. J. GGGG. Birds, Mr. J. HHHH. Mammals, Mr. J. IHHH. Reptiles, Mr. J. JJJJ. Amphibians, Mr. J. KKKK. Fishes, Mr. J. LLLL. Mollusks, Mr. J. MMMM. Crustaceans, Mr. J. NNNN. Arachnids, Mr. J. OOOO. Insects, Mr. J. PPPP. Birds, Mr. J. QQQQ. Mammals, Mr. J. RRRR. Reptiles, Mr. J. SSSS. Amphibians, Mr. J. TTTT. Fishes, Mr. J. UUUU. Mollusks, Mr. J. VVVV. Crustaceans, Mr. J. WWWW. Arachnids, Mr. J. XXXX. 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NOV 15 1951

ACTING CHAIRMAN
 UNITED STATES DEPARTMENT OF JUSTICE
 WASHINGTON, D. C. 20535

TO
FROM

[Handwritten signature]

RECEIVED

[illegible]

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Wichita, I. T., October, 30, 1901.

In the matter of the application of William L. Landrum for the enrollment of his child Sally F. Landrum as a Cherokee Freedman. He being sworn by Commissioner O. R. Humphreys, testified as follows:

- Q. Give me your full name? A William L. Landrum.
Q How old are you? A I am right at 38 years old.
Q You have been admitted already for enrollment as a Cherokee freedman? A Yes sir.
Q And you now have a baby born since your application that you want to have put on the roll? A Yes sir.
Q What is your wife's name? A Mary Landrum.
Q She is on a doubtful card? A Yes sir.
Q What was your wife's name when you married her? A Mary Eaton.
Q You married her on the 4th of April of this year? A Yes sir.
Q Were you ever married except to this woman? A Yes sir.
Q How many times were you married before? A Once.
Q To whom were you married the first time? A Rosie Bryant.
Q When did you marry her? A In 1885 I think.
Q Is she dead now? A Living.
Q How long did you live with Rosie? A 8 years.
Q Did you and she part? A Yes sir.
Q Did you get a divorce from her? A No sir.
Q Just quit did you? A Yes sir.
Q Is Rosie married again? A No sir.
Q Then didn't you marry her that time, say about '85, until this year? A No sir.
Q You never have lived with any woman as husband and wife during that time? A No sir.
Q And never got a divorce from Rosie? A No sir.
(By W. W. Hastings, Cherokee attorney)
Q Was this woman ever married before she married you? A No sir.
Q Did she have any children before you took up with her? A No sir.
Q Did she ever live with any one as a husband? A No sir.
(By L. T. Brown, agent for the applicant)
Q When you married your first wife, Rosie, did you get a license? A No sir.
(By Hastings)
Q There was none required then was there? A No sir I guess not.
(By the Commissioner)
Q You married your wife Mary on the 31st day of March of this year? A Yes sir.
Q And this child was born on the 28th of July of this year? A Yes sir.
Q Four months after your marriage? A Yes sir.

The applicant applied for the enrollment of a child born to him and his wife since then he made his original application for the enrollment of himself and wife on the 31st of May 1901. At that time the applicant was listed on Cherokee Freedman Straight card 1871, and his wife was listed on Cherokee Freedman Doubtful card 1871, the card being the application of Mary Landrum. It is developed in the present testimony that along in 1885 the applicant contracted at least a formal law marriage with a woman named Rosie; they lived together some two years or more and then parted but there has been no divorce proceedings between them, and she is still living. Under these conditions, the applicant procured a license issued by the Clerk of the United States Court for the Northern District of the Indian Territory on March 28th of the present year, authorizing his marriage to his present wife and they were married in accordance with said license on the 31st day of the same month in this year. Now the affidavit of birth shows that this child, for whom application is at present made, Sally F. Landrum, was born on the 28th of July of the present year, which shows that the child was born about four months after the marriage between its father and mother. This child will not be listed for enrollment on the

POOR ORIGINAL -
BEST AVAILABLE COPY

doubtful card with its mother, Lucy Landrum, but special attention is called to the rights this child may possess independently of the final status of its mother in her claim as a Cherokee freedman in her own right; in this connection the legality of the marriage between the applicant, whose status is not disputed, and the child's mother, requires to be carefully considered, and also attention is specially called to Section 683 of the Statutes of the Cherokee Nation, edition of 1892, relating to the legitimacy of the children, even of marriages which are declared to be of themselves unlawful, though where one of the contracting parties has unquestionable citizenship; and also attention is called to the consideration of the question as to whether this child, being born four months after the marriage, can properly be considered as an off-spring on this marriage.

(By Brown.)

Q How long was it from the time you and your first wife Rose quit living together until you married your present wife Lucy? A It was about—somewhere between 7 and 8 years, it was maybe longer than that.

(By the Commission.)

Q The testimony shows that it was 13 or 14 years. A Yes sir I guess it was.

This testimony will be filed with the affidavit of birth in the case of Lucy Landrum, C. F. N. 328, and the child's name will be placed on the card of its mother.

Chas. von Feise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this 11th of November, 1901

Chas. von Feise

Commissioner

POOR ORIGINAL -
BEST AVAILABLE COPY

File 68
368

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JAN 20 1902

CONFIDENTIAL

Specified and sworn to by the witness on this January 21, 1902.

five and complete friendship of his neighborhood and vicinity
testimony and proceedings in this case and that the foregoing is a
Commission to the Five Civilized Tribes in which he solemnly declares the
J. D. Green, being first duly sworn, states that he stands related to the

D-308, D-313, D-363 and D-364.
By J. D. Green: Let that be filed in

in the name of Dogson and son not known to A. Yes sir.
in different parts of the country, but not known to A.
of all and it extends further than that. I have some persons
extended as far as the line, or five or six miles. A. Yes sir.
how far the line and your acquaintance with the neighborhood
in the name of Dogson.

File with C. P. D. 366, Lucy Lanham.

Department of the Interior,
Commission to the Five Civilized Tribes,
Tuskogee, I. T., January 27, 1902.

In the matter of the application of Abbie Blythe et al
for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TESTIMONY OF THE AID OF CHEROKEE NATION.

Appearances:

Louis T. Brown, agent for applicants and others;
F. W. Hastings, of attorneys for the Cherokee Nation.

ANNA H. DODSON, being sworn by Commissioner Needles testified
as follows:

BY MR. HASTINGS:

- Q What is your name? A Anna H. Dodson.
Q What is your citizenship, Mrs. Dodson? A I live in the Creek
Nation, but I am a citizen of the United States.
Q You don't claim to be of Indian blood? A No sir.
Q Where did you live before the war? A At Elk Hills, in Donald
County, Missouri.
Q That was right on the line wasn't it? A Yes sir, one-fourth of
a mile from the Cherokee line.
Q Did you know Mrs. Jennie Blythe? A Yes sir.
Q Did you know her husband, Jim Blythe? A Yes sir.
Q Did you know them before the war? A Yes sir.
Q Did you know a colored woman they had by the name of Abbie? A
No sir.
Q Where did you go during the war? A Well would you like to know
everywhere I went.
Q No, generally; did you go to Missouri or Kansas? A I went to
Missouri.
Q Were you married up there after the war? A I was married in
Kent County, Maryland.
Q When did you return to the Cherokee Nation, to your old home, to
Missouri? A I returned to my old home in March, 1865.
Q Did you bring any colored person back with you? A No sir.
Q Did Abbie Blythe come back with you? A No sir.
Q How did you and your husband return? A We come in a wagon;
we had two wagons, one with horses and one with oxen.
Q Did you return to your old home at Elk Hills? A Yes sir.
Q Right near the Cherokee line? A Yes sir.
Q Did you cross Grand river or what is known in the state as Cow-
skin river? A Yes sir.
Q About how far south of there did you go? A About a quarter of
a mile.
Q And no colored woman came back with you? A No sir.
Q Did you ever see this Abbie Blythe to know her after the war?
A No sir.
Q You had no children at that time? A No sir.

BY MR. BROWN:

- Q What is your name, please? A Anna H. Dodson.
Q Did any colored person return with you? A No sir.
Q You don't know the applicant in this case at all? A No sir.
Q Was anybody else living in that neighborhood or in about it in
the State of Missouri by the name of Dodson? A Not that I know of.
Q Might be some one there and you not know it? A Yes, there might
be.

BY MR. HASTINGS:

- Q Anyone living anywhere near around you by that name except your
own family? A No sir.

BY MR. BRODT:

How far at that time did your acquaintance with the neighborhood extend, as far as the line, or five or six miles? A Yes sir.
Q Well did it extend further than that? A I knew some persons in different parts of the county, but not generally.
Q There might have been some one in the neighborhood of 10 miles by the name of Dodson and you not know it? A Yes sir.

BY MR. HARTINGS: Let that be filed in
D-306, D-217, D-367 and D-368.

E.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

E.D. Green

Subscribed and sworn to before me this January 31, 1902.

[Signature]

Commissioner.

Cherokee Freedman D 368
274

ATMS

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Celia V. Landrum as a Cherokee Freedman

ORDER.

THE RECORDS OF THIS OFFICE SHOW: That, on October 30, 1901, William L. Landrum appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of his minor child, Celia V. Landrum, as a Cherokee Freedman, and that said minor applicant was duly listed for enrollment on Cherokee Freedman Doubtful card No. 368.

THE EVIDENCE IN THIS CASE SHOWS: That the said William L. Landrum is the father of the minor applicant, Celia V. Landrum, is identified on the Cherokee authenticated tribal roll of 1880, and has been listed for enrollment by the Five Civilized Tribes on Cherokee Freedman card No. 274; that the minor applicant was born since 1880, and has continuously resided in the Cherokee Nation since birth, and is identified by a birth affidavit filed herewith and made a part of the record in this case.

THE RECORDS OF THIS OFFICE FURTHER SHOW: That the said William L. Landrum is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior on January 16, 1903, opposite No. 2103.

IT IS THEREFORE ORDERED: That the enrollment for the enrollment of Celia V. Landrum on Cherokee Freedman Doubtful card No. 368, be cancelled, and that she be listed for enrollment on Cherokee Freedman card No. 274.


Commissioner

Dated at Muskogee, Indian Territory,

this OCT 7-1905

C-7D-368

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

FILED

JAN 8 - 1906



COMMISSIONER

Cherokee Freedman B-367 et al.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
WASHINGTON, D. C., NOVEMBER 21, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of ALICE LYNCH ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, L. P. Hedges, Agent.
For Cherokee nation, James H. Davenport.

ALICE LYNCH, being first duly sworn, testified as follows:

BY MR. HEDGES:

Q What is your name? A Alice Lynch.
Q How old are you? A 36 or 37 I don't know exactly which.

ON BEHALF OF THE COMMISSIONER:

Q What is your post office? A Chaffee.
Q You are an applicant for enrollment as a Cherokee freedman?
A Yes sir.
Q Have you a child named Lovely? A Yes sir.
Q What is the name of his father? A Her father is named Fred Martin.
Q Is he the Fred Martin that lives at Vinita? A No sir, he lives close to Dewey.
Q Do you know the name of his father? A Yes sir.
Q What? A His father was named Fred Martin.
Q What was her name? A Julia Martin.
Q Is Fred living now? A Yes sir.
Q Is he married? A Yes sir.
Q Do you know the name of his wife? A Jennie.
Q Has he got some children? A Yes sir.
Q Give their names? A I don't know whether I can name them or not, one named Sel and one named Sylvester.
Q You were formerly the wife of William Lynch? A Yes sir.
Q You and William had some children? A Yes sir.
Q What were their names? A The oldest named Mariah, next David, Willie next, Earl and then Malvin and Edie.
Q How long since you and William separated? A Well once, not to say entirely separated until his death.
Q You lived together from him to then until he died? A Once in a while.
Q How is William Lynch the father of Edie? A Yes sir.
Q Are you sure of that? A Yes sir.
Q How long had you and he been separated when Edie was born? A I don't know just exactly how long we had been separated quite a little bit.
Q How he testified when he made application for the enrollment of himself and his two children that you and he only had two other children, how about that? A Well I don't know what he testified to.
Q Have you married since you and William separated? A No sir.
Q Have you ever lived with any one besides William? A No sir.
Q William married again? A Yes sir.
Q Did you and he continue to cohabit after he married his other wife? A Yes sir, this baby has been born since he was married.

Q William Lynch is the father of that child although he had another wife? A Yes sir.

BY MR. HENDSON:

Q You and he were not divorced? A No sir.

BY MR. DAVENPORT:

Q Were you ever married? A Yes sir.

Q You and he were just simply if you cohabited at all, did it on the sly? A He come home and stay all night, for two or three years whenever he felt like it.

Q Who else come and stay that way? A No sir.

Q Plenty others had the same opportunity as he did, you were living in a neighborhood where there was plenty of men? A Yes sir.

Q You knew he was married before this child was born? A Yes sir.

Q You and he haven't lived together since that time? A Yes sir.

Q You have cohabited with him since this child was born? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

Q Have you cohabited with any other men besides him? A No sir.

Q Sure of that? A Sure of that.

MARY BALL, being first duly sworn, testified as follows;

ON BEHALF OF THE COMMISSIONER:

Q What is your name? A Mary Ball.

Q How old are you? A 37 years old.

Q What is your post office? A Vinita.

Q Are you a Cherokee freedman? A No sir.

Q Do you know Alice Lynch? A Yes sir.

Q Has she a child named Eddie Lynch? A Yes sir.

Q Is the child living? A Yes sir.

Q Who is its father? A William Lynch.

Q How do you know? A That is what she said and he said, I reckon they are the ones to know.

Q Is William Lynch any kin to you? A No sir.

BY MR. HENDSON:

Q Did William Lynch tell you that he was the father of this child, Eddie? A Yes sir, said he was the father of five.

BY MR. DAVENPORT:

Q Did he tell you how he come to know he was the father of this one? A No sir, I guess I didn't want to know.

Q They were not living together as man and wife at the time this child was born? A No sir.

Q Hadn't for several years before, had they? A Yes, I know they were not living together as man and wife.

Q You know William Lynch had another wife? A Yes sir.

Geo. H. Lowley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 6th day of January, 1904.

Geo. H. Lowley

B. P. Rasmus
Notary Public.

COPY.

A. J. M.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Abbie Blythe, et al., for enrollment as Cherokee Freedmen, consolidating the applications of:

Abbie Blythe et al.,	Cherokee Freedmen D 257
Nancy Thompson,	Cherokee Freedmen D 217
Edmond Blythe	Cherokee Freedmen D 306
Alice Lynch, et al.,	Cherokee Freedmen D 267
Lucy Landrum, et al.,	Cherokee Freedmen D 348
Anna Henry	Cherokee Freedmen D 1074.

DECISION.

THE RECORD HEREIN SHOWS: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Abbie Blythe for herself and minor children, Minnie and Calis Blythe; by Jordan Thompson for, among others, his wife, Nancy Thompson; by Edmond Blythe for himself; by Alice Lynch for herself and minor children, Lively Eaton, Early, Calvin and Eddie Lynch; by William Leonard Landrum for, among others, his wife, Lucy Landrum; and by Anna Henry for herself. The others included in the above applications having been differently classified their rights to Cherokee freedman citizenship will not be considered in this decision.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Abbie Blythe, claims the right to Cherokee freedman citizenship by virtue of her compliance with the provisions of Article nine treaty of 1866, and that the other applicants herein claim the same right as her descendants.

The following points are fully established by the proof submitted:

- (1) That the applicant, Abbie Blythe, was the slave of a Cherokee citizen at the commencement of the rebellion, and for several years prior thereto resided with her master in the state of Missouri; that during the war she was sold to a citizen of said state, named Lammie, and continuously lived therein till about the year 1875, when she, with her family, removed to the Cherokee Nation, and has since continuously resided therein.
- (2) That said applicant, Abbie Blythe, is the mother of the applicants, Anna Henry, Alice Lynch, Edmund Blythe, Nancy Thompson, and Minnie and Calie Blythe, and that the applicant, Alice Lynch, is the mother of the applicants, Lucy Landrum, Lively Eaton and Early, Calvin and Eddie Lynch, all of whom were born, in the order named, since the close of the rebellion. And that the father of the applicants, Early and Calvin Lynch (both of whom were born subsequent to the year 1890) was one William Lynch, now deceased, who, the records of this office show, is identified on the Cherokee authenticated tribal roll of 1880, and on the final Cherokee Freedman approved roll, opposite No. 1793.
- (3) That, except as above noted, neither the applicants herein nor any discovered ancestor through whom by any possibility they might obtain rights to Cherokee freedman citizenship can be identified on the Cherokee authenticated tribal roll of 1880 or the Cherokee census roll of 1896.

The evidence further shows that the said Anna Henry and Alice Lynch were born in the state of Missouri of white paternity, and, in the absence of proof to the contrary, it will be presumed that their fathers were non-citizens of the Cherokee Nation.

It further appears that ample opportunity has been afforded the applicants Edmund Blythe and Nancy Thompson to establish their paternity, but that in this they have wholly failed, hence, it can not be presumed that they obtain any rights to Cherokee citizenship from that source.

It is further shown that the applicant, Abbie Blythe, testified that the father of her two children, Minnie and Calie Blythe, was one Calvin Hilderbrand, now deceased, but, after ample opportunity having been afforded, it is not established that the said Calvin Hilderbrand, deceased, was a Cherokee citizen. An examination of the Cherokee records in this office fails to disclose that this alleged ancestor was ever recognized by the Cherokee authorities as a citizen of the Cherokee Nation, consequently, it can not be presumed that the two applicants last above named obtain any rights to Cherokee citizenship through their father.

It also appears that on her first appearance before the

Commission in this case, the applicant, Alice Lynch, testified that her oldest child, Lucy Landrum, nee Eaton, was the daughter of one Thomas Eaton, who, the records of this office show, is on the final Cherokee Freedmen roll opposite No. 1942, and that her oldest child living at home was named "Lovely Eaton". Enrollment card Freedman D 367, shows that the said Alice Lynch gave the name of Lovely Eaton's father as Thomas Eaton, and the record herein shows that in a birth affidavit executed by her on May 21, 1901, and filed with the Commission on August 31, 1901, she deposed that Tom Eaton was the father of her child, Love (Lovely) Eaton. And that on her last appearance herein she testified that the father of her said child, Lovely Eaton, was one Fred Martin, who, the records of this office show, is on the final Cherokee Freedmen roll opposite No. 4052. And that she further testified that the father of her child, Eddie Lynch, was the said William Lynch, deceased, above referred to.

The only proof herein relative to the paternity of the said Lucy Landrum and Lovely Eaton is the uncorroborated testimony of their mother, and which, as to Lovely Eaton, is contradicted by the information she gave the card clerk, and also by the birth affidavit executed and filed by her. The testimony of this applicant further shows that her two children last above named, are the fruits of an occasional illicit association with their fathers, whoever they may be.

As to the paternity of the applicant, Eddie Lynch: The record (birth affidavit) shows that he was born December 18, 1900. Also that on May 7, 1901, and February 21, 1903, the said William Lynch, since deceased, appeared before the Commission to the Five Civilized Tribes at Vinita, Indian Territory, and testified that he was the former husband of the said Alice Lynch, and that about 1897 or 1898 he was divorced from her; that four children were born to them, two of whom, at their separation, remained with their mother and two, Maria and Willie, went with him and for whom he made application for enrollment; and that since his divorce from Alice he married one Mary Teener by whom he had one child, who, a comparison of the record shows, is between one and two months younger than the said Eddie Lynch.

In view of the foregoing it is considered that the evidence in this case fails to satisfactorily establish the paternity of Lucy Landrum, Lovely Eaton and Eddie Lynch, hence the applications for their enrollment as descendants of their fathers come within the ruling of the Department in the cases of Eliza Bryant, et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan et al. (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Moses Ross (I.T.D. 6056-04), Jane Looney et al. (I.T.D. 6410, 12692-04), Florence Bratcher (I.T.D. 12692-04), and Frankie Grinnett (I.T.D. 17902-1905).

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section twenty-one of the Act of Congress ap-

proved June 28, 1896 (20 Stat., 495), Abbie Blythe, Minnie Blythe, Calie Blythe, Emily Thompson, Edward Blythe, Alice Lynch, Lovely Eaton, Edie Lynch, Lucy Landrum and Anna Henry, are not entitled to enrollment as Cherokee Freedmen, and their applications for enrollment as such are accordingly denied; and that, in accordance with the provisions of Section Twenty-one of the Act above cited, Emily Lynch and Calvin Lynch, are entitled to enrollment as Cherokee Freedmen, and their application for enrollment as such is accordingly granted.

SIGNED

Farns Bixby

Commissioner

Dated at Muskogee, Indian Territory,

this JUN 28 1906

JN008

10 1962

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Lucy Landrum,

Chaffee, I. T.

Cherokee F-D-366.

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

(C O P Y)

Cherokee
F. D-368

Muskogee, Indian Territory, September 12, 1905

Lucy Landrum,

Chaffee, Indian Territory

Dear Madam:

In connection with your application for the enrollment of yourself and minor children , Celia V. Landrum, as Cherokee freedmen, you are advised that before a final decision can be rendered in your case, it will be necessary that further testimony be introduced as to what right, if any, you possess to enrollment as a Cherokee freedman through your father.

You are, therefore, hereby notified to appear before the offices of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory , at nine o'clock A. M. on Thursday, September 28, 1905, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in this case.

Respectfully,

(Signed) Wm. O. Beall
Acting Commissioner

GHL

Register

Cherokee
F D-368.

Muskogee, Indian Territory, September 12, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In connection with the application for the enrollment of Lucy Landrum and her minor child, Celia V. Landrum, as Cherokee freedmen, you are advised that before a final decision can be rendered in this case, it will be necessary that further testimony be introduced as to what right, if any, Lucy Landrum possesses to enrollment as a Cherokee freedman through her father.

The principal applicant, Lucy Landrum, has this day been notified to appear before the offices of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, September 28, 1906, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in this case.

Respectfully,

SIGNED:

W. B. Rice
Acting Commissioner

GHL

(COPY)

Chaffee, I.T., Mar. 3-06.

To The Hon. James Bixby,
Commissioner of the Five Civilized Tribes.,
Muskogee, I. T.

Dear Sir:--

I wish to employ, Messrs Zeverly & Givens, of
Muskogee, I. T., as associate attorneys in the case of my appli-
cation for enrollment as a Cherokee Freedman, and I request
that they be entered as such associate attorneys in my case.

Respectfully

his
Edmond X Elythe
mark
her
Minnie X Elythe
mark.

Witness:--

G. W. Spiller
Lillie Mayfield.

Chateau, N. Y., March 10th 1906.

To Hon. Dawes Commission.

I wish to have the names of Messrs. Leavelly & Givens
as my associate attorneys in the cases of Abby Blythe, Edmund
Blythe et al., Cherokee freedmen. Please have them so listed
and oblige.

I. P. Hodges.

Cherokee Freedmen
D368.

COPY.

Muskogee, Indian Territory, June 28, 1906.

Lucy Landrum,

Chaffee, Indian Territory.

Dear Madam:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 18, 1906, rejecting, among others, your application for your enrollment as a Cherokee freedmen.

Your attorneys, Zevely and Givens, Muskogee, Indian Territory, have heretofore been furnished with a copy of the record of proceedings had in your case, and there has this day been forwarded to them copy of the Commissioner's decision.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. M.A.28-13.

Register.

Tame Bixby
Commissioner.

Cherokee Freedmen
D 257.

COPY.

Washoe, Indian Territory, June 28, 1906.

I. P. Hedges,

Agent for Abbie Blythe, et al,

Cherokee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the applications for the enrollment of Abbie, Minnie and Calie Blythe; Nancy Thompson; Edmund Blythe; Alice and Eddie Lynch; Lively Eaton, and Anna Henry as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in said case.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. H.A. 28-29.

Tame Bixby
Commissioner

Cherokee Freedmen
D 257 et al.

COPY.

Washoe, Indian Territory, June 28, 1906.

Bell, Hastings and Davenport,

Attorneys for the Cherokee Nation,

Washoe, Indian Territory.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the application for the enrollment of Abbie, Minnie and Calie Blythe; Nancy Thompson; Edmund Blythe; Alice and Eddie Lynch; Lively Eaton; Lucy Landrum and Anna Henry, and granting the application for the enrollment of Early and Calvin Lynch, as Cherokee freedmen.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. H.A. 28-29

CHIEF:

Tame Bixby.

Commissioner

Cherokee Freedmen
D 257 et al.

COPY.

Muskogee, Indian Territory, June 28, 1906.

Zevely and Givens,
Attorneys for Abbie Blythe et al,
Muskogee, Indian Territory.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the application for the enrollment of Abbie, Minnie and Galis Blythe; Nancy Thompson; Edmond Blythe; Alice Lynch; Lovely Katen; Eddie Lynch; Lucy Landrum; and Anna Henry, and granting the application for the enrollment of Early and Calvin Lynch, as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in said case.

The decision, together with the record of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

SIGNED:

Jame Dixby.

Commissioner.

Encl. M.A. 28-14.

COPY.

Wadagee, Indian Territory, June 28, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the consolidated application of Abbie Elythe et al, including the decision of the Commissioner to the Five Civilized Tribes dated June 28, 1906, rejecting the applications of Abbie, Minnie and Callie Elythe; Nancy Thompson; Edmond Elythe; Alice and Eddie Lynch; Lovely Eaton; Lucy Landrum and Anna Henry, and granting the application for the enrollment of Harly and Calvin Lynch as Cherokee freedmen.

Respectfully,

Encl. N.A. 28-19.

(SIGNED).

James Bixby.
Commissioner/

Wuskegee, Indian Territory, August 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a reply of the Cherokee Nation to a motion for a rehearing in the Cherokee freedman case of Abbie Elythe, et al, D. 227, et al. Service of a copy of this motion on Levely, Givens and Smith, attorneys for applicants, Wuskegee, Indian Territory, is shown. The records of this office fail to show that a motion for a rehearing of the freedman case of Abbie Elythe, et al, has been filed with it.

The decision of the Commissioner to the Five Civilized Tribes, dated June 26, 1906, rejecting the applicants embraced in said case was, together with the record of proceedings had in the case, forwarded to the Department on June 22, 1906.

Respectfully,

Encl. N.A. 22-1.

Commissioner.

Through the Commissioner
of Indian Affairs,

(COPY)
DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND
56236-1906.
65644-1906.
73825-1906.

September 12, 1906

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a letter from the Commissioner to the Five Civilized Tribes, dated June 28, 1906, enclosing the record in the case of Abbie Blythe, et al., applicants for enrollment as Cherokee freedmen; also a motion for re-hearing filed in this Office on July 31, 1906, by McGowan, Servess & Mohun, Washington, attorneys for the applicants. On August 22, 1906, the Commissioner transmitted to this Office the reply on behalf of the Cherokee Nation, showing written acceptance of service on August 9, 1906, by Zevely, Givens & Smith, attorneys for the applicants.

The principal applicant in this case, Abbie Bly (or Blythe), made application for the enrollment of herself and two minor children, Minnie Bly, aged sixteen and Calis Bly, aged twelve, on May 11, 1901, at Vinita, at which time she introduced testimony in support of her contention. Supplemental testimony was submitted on May 15, 1901, on October 2, 1901, October 4, 1901, January 27, 1902, and September 28, 1905. The other applicants in this case, Nancy Thompson, Edmond Blythe, Alice Lynch, et al., Lucy Landrum, et al. and Anna Henry, are the

children and grandchildren of the principal applicant, whose rights to enrollment as Cherokee freedmen depend entirely on such rights as she may have, except in two instances mentioned in the decision.

The evidence shows that Abbie Bly (or Blythe) was the slave of James Blythe, a Cherokee citizen, before and at the commencement of the Civil War. The testimony of Blythe himself is that when the war broke out he was living in McDonald county, Missouri, and had been a resident of that State for about five years; that Abbie was his slave in Missouri, and that in the year 1862 or 1863 he sold her to one James Lamance, of Pineville, Missouri, that he next saw her after the war in the spring of 1866, when she came to him and again wanted to live in the family as in former days; that he saw her no more until sometime after he moved to Vinita in 1871, when she came to him to seek advice as to the best place for her to locate.

The testimony of Abbie Blythe is very indefinite, contradictory and unsatisfactory on the one material point in this case, viz: as to when she returned to the Cherokee Nation after the war. At one time she said she came in a wagon with a family named Dodson, from some place in Kansas, and denied that she had ever lived in Missouri; that they came back in the fall of 1866, and camped out on the Grand River. At another time she testified that she came back with a white family but did not know the name. The testimony of Mrs. Blythe

is clear on all points save that concerning Abbie's return to the Cherokee Nation, though somewhat in conflict with that of her husband, which is easily accounted for by reason of the great lapse of time intervening between the events and the hearing; but as to where Abbie Blythe was from 1865 to 1879 she knows nothing.

Captain Hicks, another of her witnesses, testified that he had known Abbie twenty-five or twenty-six years in the Cherokee Nation, but that he did not know where she was in 1866. It will be observed that he became acquainted with her in 1875 or 1876. The name of Abbie Bly (or Blythe) does not appear on the authentic roll of 1880, nor on the census roll of 1896, but does appear on the Kerns-Clifton Roll as Abbie Blye, No. 3897, Cooweescoowee District, while Minnie Blye is on the same roll as No. 3899 and Callus Blye appears as No. 3900.

The evidence shows that applicants Anna Henry and Alice Lunch were born in the State of Missouri, and the Commissioner found that both were of white paternity, and assumed that the fathers were non-citizens. It is alleged by Abbie Blythe that one Calvin Hilderbrand, deceased, was the father of Minnie and Callis Blyth, but there is no evidence that he was a citizen of the Cherokee Nation, even if it be assumed that he was in fact the father. There is no evidence showing who was the father of Edmond Blyth and Nancy Thompson.

The testimony in this case shows a very low state of morals, and about the only established fact is that Abbie Bly was a slave and is the mother of her children, Early Lynch and Calvin Lynch were proven to be the children of William Lynch former husband of Alice Lynch, from whom he was divorced in 1897 or 1898, and were duly enrolled as children of their father under Section 21 of the Act of June 28, 1898, (30 Stats. 495).

The motion for re-hearing is supported by five affidavits, which are presumed to be on the theory of newly discovered evidence, though no proper showing is made to establish that fact. Without entering into any discussion as to the showing necessary to justify a re-hearing, the Office calls attention to the fact that four of these affidavits signally fail to locate the principal applicant in the Cherokee Nation during 1866 or 1867, or at any other time. All they do is to locate her in Missouri at different times after the War.

The affidavit of Simon Lynch locates her in the Cherokee Nation, but even if his affidavit be true, it would seem that the exercise of any degree of diligence would have found him and produced him before the Commission during the five years this case was open.

The Office respectfully recommends that the motion for a re-hearing be denied, and that the decision of the Commissioner rejecting the enrollment of all the applicants except Early

(8)

Lynch and Calvin Lynch be affirmed; also that the enrollment
of Early Lynch and Calvin Lynch be approved.

Very respectfully,

F. E. Lynch.

Commissioner.

EWE-LC..

D.C.54100

(COPY)

J.F.Jr.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

I.T.D.17918-1906.

December 8, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Indian Office on September 13, 1906 (Land 73825), transmitted your report dated June 28, 1906, forwarding the record in the matter of the consolidated applications of Abbie Blythe et al. for enrollment as Cherokee freedmen.

On June 28, 1906, you rendered a decision rejecting the applications of Abbie, Minnie, and Calis Blythe, Nancy Thompson, Edmond Blythe, Alice and Eddie Lynch, Lovely Eaton, Lucy Landrum, and Anna Henry and granting the application for the enrollment of Early and Calvin Lynch as Cherokee freedmen.

There is also transmitted a motion for rehearing filed by the attorneys for the applicants and the reply of the nation to said motion.

The Indian Office recommends that the motion for rehearing be denied, and that your decision rejecting the applications for the enrollment of all the applicants except Early and Calvin Lynch be approved. A copy of its letter is inclosed.

The Department has considered the motion for rehearing in

connection with the record, and is convinced that no sufficient reason is shown for a further hearing of this case.

The motion for rehearing is accordingly denied. Your decision, rejecting the applications of Abbie, Minnie and Calie Blythe, Nancy Thompson, Edmond Blythe, Alice and Eddie Lynch, Lovely Eaton, Lucy Landrum, and Anna Henry and granting the application for the enrollment of Early and Calvin Lynch as Cherokee freedmen, is hereby affirmed.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan,

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 5 to Ind. Of.

Cherokee F.
D. 368.

Muskogee, Indian Territory, December 17, 1906.

Lucy Landrum,

Chaffee, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, rejecting your application for enrollment as a Cherokee freedman was approved by the Department December 8, 1906, and the motion for a rehearing of your case denied.

Respectfully,

H.J.C.

Commissioner.

Cherokee F.
D 257 et al.

Muskogee, Indian Territory, December 17, 1906.

Zevely, Givens & Smith,

Attorneys for Abbie Elythe, et al.,

Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the applications for the enrollment of Abbie Elythe, et al., and granting the application for the enrollment of Marly and Calvin Lynch, as Cherokee freedmen, was approved by the Department December 5, 1906, and your motion for a rehearing of said case denied.

For your information there is enclosed a copy of Departmental decision referred to.

Respectfully,

Encl. H. J. - 11.
H J. C.

Commissioner.

Cherokee F.
D 257 et al.

Muskogee, Indian Territory, December 17, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated June 28, 1906, rejecting the applications for the enrollment of Abbie Blythe et al., and granting the application for the enrollment of Early and Calvin Lynch, as Cherokee freedmen, was approved by the Department December 8, 1906, and the motion for a rehearing of said case denied.

For your information there is enclosed a copy of Departmental decision referred to.

Respectfully,

Encl. H.J.-10.
H.J.C.

Commissioner.

Kuskogee, Indian Territory, February 9, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed an "amended motion for rehearing" of the consolidated Cherokee freedmen cases of Abbie Blythe, et al. This motion was filed by Zevoly, Givens & Smith, Kuskogee, Indian Territory, and Starr & Patten, Vinita, Indian Territory, January 18, 1907. The reply of the Attorney for the Cherokee Nation filed January 26, 1907, is also enclosed.

The decision of the Commissioner to the Five Civilized Tribes dated June 28, 1904, rejecting the application for the enrollment of all of the applicants embraced in the consolidated Cherokee freedmen cases of Abbie Blythe et al. except Harry and Calvin Lynch, was affirmed by the Department December 8, 1906 (I.T.D. 17912-1906). The Department also, on that date, denied a motion filed by Messrs. Zevoly, Givens & Smith, for a rehearing of the case,

Secretary-S

holding that it "has considered the motion for rehearing in connection with the record, and is convinced that no sufficient reason is shown for a further hearing of this case."

The evidence upon which this motion herewith enclosed is based seems to be merely cumulative; in fact it is supported by copies of a number of affidavits which the Attorney for the Cherokee Nation alleges are copies of affidavits filed in support of the motion for rehearing which the Department denied on December 8, 1906. There is nothing whatever to show that the motion is not made for the purpose of delay, or that with due diligence the evidence now sought to be introduced could not have been secured when the case was heard before the Commission and the Commissioner. A re-examination of the records in the case convinces the Commissioner that there is no merit to the motion, and it is respectfully recommended that the same be denied.

Respectfully,

Through the

Commissioner of Indian Affairs

Encl. B-64

Commissioner

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND.
107542-1906
15728-1907.

February 26, 1907.

(COPY)

The Honorable,

The Secretary of the Interior,

Sir:

Referring to Departmental letter of December 8, 1906 (I.T.D.17918-1906), denying motion for re-hearing in the application of Abbie Elythe, et al., I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated February 9, 1907, enclosing amended motion for re-hearing in a consolidated case, which was filed with the Commissioner on January 18, 1907, by Zevely, Givens & Smith, of Muskogee, I. T., and Starr & Patten, of Vinita, I. T.

The reply of the attorney for the Cherokee Nation was filed January 26, 1907. The evidence on which the amended motion is based is merely cumulative. It is supported by copies of a number of affidavits which the attorney for the Cherokee nation alleges are copies of affidavits filed in support of the motion for re-hearing, which was denied on December 8, 1906. There is nothing to show that this motion is not made for the purpose of delay, or that with due diligence the evidence now sought to be secured could not have been produced when the case was first

heard before the Commission and the Commissioner.

The original application was made on May 11, 1901, and no decision was rendered until June 28, 1906, a period of more than five years, and it was not until after an adverse decision was rendered that the applicants made any effort whatever to secure the testimony that they now allege they could introduce if the case is re-opened.

The Office is of the opinion that sufficient diligence has not been shown in this case to justify a re-opening, and it therefore concurs in the recommendation of the Commissioner that the motion be denied.

Very respectfully,

G. F. Larrabee

Acting Commissioner.

EVB--SD.

COPY

D.C.12322-1907. DEPARTMENT OF THE INTERIOR, J.FJr.

I.T.D.5554-1907. WASHINGTON. LLB

L.R.S.

Direct.

March 1, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The "amended motion for rehearing" of the consolidated Cherokee freedman cases of Abbie Blythe et al., received with your letter of February 9, 1907, and Indian Office letter of February 26, 1907 (Land 15726), copy inclosed, is hereby denied, in accordance with your recommendation and that of the Indian Office, and in view of the limited time allowed by section 2 of the act of April 26, 1906 (34 Stat., 137), for completing the citizenship rolls of the Five Civilized Tribes.

The papers in the case and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

Jesse M. Wilson

Assistant Secretary.

1 inc. and 3 to Ind. Of.

A. F. Mc

3-107.

Cherokee P
D 266.

Muskogee, Indian Territory, April 1, 1907.

Lucy Landrum,

Chaffee, Indian Territory.

Dear Madam:

You are hereby advised that the motion filed by your attorneys, Sevely, Givens & Smith, of Muskogee, Indian Territory, and Starr & Patten, of Vinita, Indian Territory, for a rehearing of your Cherokee freedman enrollment case, was denied by the Secretary of the Interior, March 1, 1907.

Respectfully,

Geo. D. Rodgers.
Acting Commissioner.

LMC

Cherokee F.
D 257

Muskogee, Indian Territory, April 8, 1907.

Starr & Patton,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed by you for a rehearing of the Cherokee freedman enrollment case of Abbie Elythe, et al., was denied by the Secretary of the Interior, March 1, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Geo. D. Rodgers.

Acting Commissioner.

Encl. C-3
LMC

Cherokee F.
D. 257. et al.

Muskogee, Indian Territory, April 5, 1907.

Kevelly, Givens & Smith,

Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed by you for a rehearing of the Cherokee freedman enrollment case of Abbie Elythe, et al., was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

W. D. Rodgers
Acting Commissioner.

Encl. C-4
KMS

Cherokee F.
D. 257, et al.

Muskogee, Indian Territory, April 2, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion filed for a rehearing of the Cherokee freedman enrollment case of Abbie Blythe, et al., was denied by the Secretary of the Interior, March 1, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to,

Respectfully,

Geo. D. Rice

Acting Commissioner.

Encl. C-8
LMC

Cher. Fr. R. 875

Trans. from C. Fr. D. 374

Cher. Fr. R. 875

To be filed in case of Ab Buffington, B - 374.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 31, 1901.

In the matter of the application of William Buffington for enrollment as a Cherokee Freedman.

William Buffington, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A William Buffington.
Q How old are you? A About 34 years old.
Q What is your postoffice? A Vinita.
Q What district do you live in? A In Delaware.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Desire to enroll anybody besides yourself? A Well I have a sister but she is sick and she can't be here, and her mother.
Q How old is she? A She is about 33.
Q Well, she will have to appear herself. Does your name appear upon the authenticated roll of 1880? A No, sir, I don't think it does.
Q On the Kerns-Clifton roll? A I don't think it is.
Q Never drew what is known as the strip payment? A No, sir.
Q Is your name to be found on the Wallace roll? A Yes, sir.
The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.
The 1898 census roll of Cherokee Freedmen examined and the applicant not identified thereon.
The Kerns-Clifton pay-roll examined and the applicant not identified thereon.
Q What was your father's name? A William Buffington.
Q Is he living? A No, sir.
By E. M. Rutherford, attorney for applicant: What is your mother's name? A Lizzie.
Q Is she living? A Yes, sir.
Q Is her name on the roll of 1880? A I don't think it is.
Q Were you born a slave? A No, sir.
Q Was your mother a slave? A Yes, sir.
Q To whom did she belong? A Andy McLaughlin.
Q Is she a Cherokee citizen? A Yes, sir.
Q Are you a brother to Ab Buffington? A Yes, sir.
Q Where were you born? A I was born on Beatty's Prairie.
Q In the Cherokee Nation? A Yes, sir, Delaware district.
Q You are a full brother to Ab Buffington? A Yes, sir.
Q William Buffington was his father? A Yes, sir.
Q And Lizzie Buffington was his mother? A Yes, sir.
Q Has your mother been enrolled? A Not yet.

The Wallace roll examined and the applicant identified thereon page 89, No. 2125, Saline district, Wm. Buffington.

By L. B. Bell, Cherokee attorney: How many children were there in the family of Bill Buffington? A There is four living and two dead.

- Q You say you were born in the Cherokee Nation? A Yes, sir.
Q About what year? A 1866.

Commissioner: Reference is made to the testimony taken in the application of Ab Buffington for enrollment as a Cherokee Freedman, whose name is enrolled upon doubtful card D-374, and the testimony taken in said case will be made part of the testimony in this application. Said William Buffington's name is not found upon any of the rolls in the possession of this Commission except the Wallace roll, and he is duly identified upon the Wallace roll and he will be listed for enrollment as a Cherokee Freedman on what is known as a doubtful card.

Supplemental testimony.

William Buffington - 2.

Luster Foreman, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Luster Foreman.
Q How old are you? A About 56 or 58 years old.
Q What is your postoffice address? A Vinita.
Mr. Rutherford: Are you a Cherokee Freedman? A Yes, sir.
Q And on the authenticated roll of 1880? A Yes, sir.
Q How long have you lived here in the Cherokee Nation? A All my life.
Q Are you acquainted with Bill Buffington, the applicant? A Yes, sir, reasonably, since I have been up in this country.
Q Did you know his father, William Buffington? A No, sir.
Q Did you know his mother? A Yes, sir, slightly.
Q How long did you say you have known William Buffington, the applicant? A I have known him since I came in to Vinita, about ten or twelve years.
Q You don't know anything about when he was born? A No, sir.

Fred Martin, being duly sworn by Commissioner Needles, testified as follows:

- Mr. Rutherford: State your name? A Fred Martin.
Q What is your age? A 43.
Q Where do you live? A Live on Grand River in Saline district.
Q How long have you lived there? A I have lived there nearly all my life.
Q What is your postoffice? A Spavinaw.
Q You are on the authenticated roll of 1880 are you? A No, sir.
Q Are you on any of the rolls? A Yes, sir, my case went through the other day on a straight card.
Q You say you have lived there on that place nearly all your life where you all live? A Yes, sir.
Q Do you know Bill Buffington, the applicant? A Yes, sir.
Q How long have you known him? A Ever since he was quite a small boy.
Q Who was his father? A Bill Buffington.
Q Did you know Bill Buffington during his live time? A Yes, sir, some parts of it.
Q Where was he living when you knew him? A When I first knew him was when he had moved from somewhere, they said up close to Mayfield, to old man Griffin Daniels.
Q Do you remember when that was? A Why not exactly the days of the year, but these two boys, and another girl that died in Vinita, was very small.
Q When he moved to Grand River? A Yes, sir.
Q To Daniel Griffin's place? A To Griffin Daniels, yes, sir.
Q What was the names of these boys? A One they called Ab and one they called Billie.
Q They were small? A Yes, sir.
Q That was when he came there? A Yes, sir, that was when he moved down on Grand River.
Q Was his wife with him at that time? A No, sir.
Q And you don't know what year that was? A No, sir, don't know the year.
Q How long did he live there? A Lets see if I can tell you, he made a crop I think, for Granddaddy Griffin as we called him, and then he taken the children to his brother's widow, these three little children, it was them Peggy Henry, after they came down here, and he then went over and stayed a while during the same year somewhere near Gus Buffington.
Q Where was that? A Over in Delaware district over near Joe Lynch who is on trial over there now, he stayed there till after the small pox and then he moved from there to Jack Davis and Jack built him a little house over just across the branch from where he is living, and there is where Uncle Bill lived and died.

William Buffington - 3.

Q When did he die? A In 1889.

Q Do you know when it was he carried these children to his sister in law? A No, sir, I don't.

Q How old was William at that time? A I don't know as that they were very large, Eliza was the best of all, Billie was the next, and Ab was the largest.

Q Where did they live, this sister in law, Peggy Henry? A She lived at the place that is called now the Stephen Henry place.

Mr. Bell: Tell where it is? A It is in Saline district on Lynch's Prairie.

Mr. Rutherford: You don't know the year that he came to Grand River?

A No, sir.

Q Did you know him when he lived out there first? A No, sir.

Q You never knew him till he came down to Grand River? A I never knew him till he came to Grand River, but I knew him from that time on up until he died.

Q Do you know where his wife was at that time? A No, sir, not of my personal knowledge, I have heard him say where she was, but then I don't know myself.

Q Have you known these boys constantly since that time, Billy and Ab? A Yes, sir.

Q Where have they lived? A Well, Bill has traveled around some, I don't know just where he has been, he has been living in Vinita a right smart bit; Ab has been living in Vinita part since that time.

Q Since you knew them on Grand River as children? A Yes, sir.

Q You state the old man died in 1889? A Yes, sir, I know he died because I helped bury him, I helped dig the grave and helped put him in the coffin.

Q You had seen him in this country from the time he first came here off and on till he died? A Yes, sir.

Q He never was gone out that you know anything about? A No, sir, if he went out that was before my recollection.

Q Do you know, taking the war as a starting point, how long was it after the war that you first met him down on Grand River? A Well I don't know about that, he has been on Grand River, I can tell you neareabout how long he had been there before he died, between three and four years before he died, somewhere along there.

Q And you understood he moved from Beatty's Prairie? A That is what I understood, but I don't know anything about that of my own personal knowledge, all I know is what I saw, I know that.

Q Do you know anything about why his wife wasn't living with him? A No, sir, no more than I heard they were separated.

Q How long had they separated, you understood, before he came to Grand River? A I don't know, the first I knowed of them being separated is when he brought them children there.

Q That was several years before he died? A Yes, sir, between three and four years before he died.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilised Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 25th of May, 1901.

C. R. Breckinridge,
Commissioner.

William Buffington No. 4.

(Case Continued, May 21, 1901.)

Ben Beck, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Ben Beck.

Q What is your age? A I am about 58.

Q What is your postoffice? A Vinita.

Q Are you a citizen of the Cherokee Nation? A Yes sir.

Q By blood or Freedman? A I am both, I guess, I am mixed; yes, a Freedman.

Q Is your name on the roll of 1880? A I don't know sir, whether it is or not.

By S. M. Rutherford, Applicant's Attorney: How long have you lived in the Cherokee Nation? A Raised here.

Q What point? A In Flint District.

Q Did you know William Buffington? A Yes sir.

Q Do you know William Buffington, the applicant here? A Yes sir.

Q Do you know who his father was, this William Buffington here?

A Yes sir, Bill Buffington.

Q When did you first know William Buffington? A I used to know him when he was a boy.

Q Where? A In Flint.

Q Where was he living in Flint? A He lived on Beatty's Prairie.

Q Did you see him after the war in here? A Yes sir, I saw him.

Q Where? A At Vinita.

Q Do you know where he lived immediately after the war? A No sir, I didn't know just after the war.

Q You didn't know just where he lived? A No, not at that time.

Q Who was his wife? A Lizzie.

Q Were they living together when you knew them? A No sir.

Q Do you know when they separated? A No sir, I don't know when they separated; he was separated when I knew him.

Q You know how many children they had? A Three, I believe here.

Q What are the names of those three? A Ab, Bill, and one Eliza; she is dead.

Q That was when you saw him after the war? A Yes sir.

Q Where was his wife living at that time? A I don't know where. I heard she was down by Gibson; I never saw her myself; he said she was there.

Q You have known these children constantly since you first met them? A Yes sir.

Q Where have they lived? A In Vinita.

Q Which ones live in Vinita? A Ab and Bill; this girl she died in Vinita.

By S. Bell, Cherokee Attorney: You say you have known these boys ever since you first saw them? A Yes sir.

Q Where does Bill Buffington live? A In Vinita.

Q How long has he been living there? A I don't know how long.

Q How could you be knowing him all the time? A I said ever since I knowed him he has been living there.

Q You don't know whether he has been living there six months or not? A Yes, longer than that.

Q Well how long? A I have been living here going on fifteen years myself.

Q Bill has been living there fifteen years, has he? A Yes sir.

Applicant's attorney ask that the testimony of Ben Mackey taken in the application of Mary Hemette on the 16th day of April be made a part of the record in the case now under consideration. The same being testimony D Card No. 79.

Lizzie Warfield, being sworn by Commissioner Needles, and examined by S. M. Rutherford, testified as follows:

Q What is your name? A Lizzie Warfield.

Q Warfield, he is your second husband is he? A Yes sir.

Q Who was your first husband? A Buffington.

Q What is your postoffice address. Where do you get your mail?

C. W. B.

A I don't know.
Q Walpowa or Cherokee? A Don't know.
Q You say William Buffington was your first husband? A Yes sir.
Q You and he separated? A Yes sir.
Q How many children did you have by William Buffington? A Two boys and a girl.
Q What girl? A My daughter.
Q Mary Hemitte? A Yes sir.
Q What boys William and Ab? A Yes sir.
Q And Mary and Daws? A Yes sir.
Q They were your children by William Buffington? A Yes sir.
Q Where were you living when they were born? A On Heatty's Prairie.
Q When did you separate from William Buffington, how long ago? A I don't know; I forgot how long it was.
Q Have you always lived here in the Cherokee Nation since you came back? A I don't know.
Q What became of Mary after you and William Buffington separated who took her? A One of her aunts took her.
Q Which one? A Clara.
Q Didn't Nan Manuel take her? A Yes sir, she took her, I forgot.
Q She took her and raised her, didn't she? A Yes sir.
L. B. Bell, Cherokee Attorney: You say these children were all born at Beatty's Prairie? A Yes sir.
Q When? A I don't know; it has been so long.
Q Was it before the war or after the war? A After the war, I think.
Q I would like to ask you, do you think you recollect that they were born? A No, I don't think I does; it has been so long.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger.

Subscribed and sworn to before me this 27th day of May, 1901.

C. R. Breckinridge,
Commissioner.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, that he made the above and foregoing copies, and that it is a true and correct copy of the original.

Subscribed and sworn to before me this 28th day of July, 1901.


Commissioner.

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F. J.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE UN-CIVILIZED TRIBES
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Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Ab Buffington for enrollment as a Cherokee Freedman.

Ab Buffington, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Ab Buffington.
- Q How old are you? A 36.
- Q What is your post office address? A Vinita.
- Q What district do you live in? A Delaware.
- Q Do you want to be enrolled as a Cherokee Freedman? A As a descendant.
- Q Is your name found on the roll of 1880? A I don't know whether it is there or not.
- Q Did you ever draw any money from the Cherokee Nation? A Yes, sir.
- Q Did you ever vote? A Yes, sir.
- Q Been a recognized citizen? A Yes, sir.
- Q Who do you want to enroll besides yourself? A Just myself.
- Q What was your father's name? A Bill Buffington.
- Q Is he living? A No, sir.
- Q Is his name on the roll of 1880? A I don't know whether it is there or not.
- Q What is your mother's name? A Lissie.
- Q Is she living? A Yes, sir.
- By Edgar Smith, Attorney for applicant: Where do you live? A Delaware district.
- Q Do you live in Vinita? A Yes, sir.
- Q How long have you lived there? A Well, I have lived the biggest part of my life, about 30 years I guess.
- Q About twenty years in Vinita? A Yes, sir.
- Q Where were you living as far as back as you can remember: what is your earliest recollection of any place? A Living in Vinita.
- Q You can remember farther back than 20 years; you are 36 years old? A I just mention about living in Vinita that long.
- Q What is your earliest recollection as to where you lived? A On Grand River.
- Q What portion of the Cherokee Nation did you live in, what part of Grand River? A Near the place they call Island Ford, I believe that is the name of the place it is near.
- Q Are you on the Wallace roll? A Yes, sir.
- The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.
- The 1896 census roll of Cherokee Freedmen examined and the applicant not identified thereon.
- The Wallace roll examined and the applicant identified thereon, Page 105, No. 2195, Delaware district.
- Q Did you draw any money on that Wallace payment? A Yes, sir.
- Q Have you any brothers or sisters, Ab? A Yes, sir, I have three full brothers and sisters.
- Q What are their names? A The oldest one is named Bill, and a sister Mary.
- Q Is your sister Mary's name Buffington or is she married? A She is married.
- Q What is her name now? A Her name is Mary Bennett now.
- Q Are they older or younger than you are? A They are younger than I am.
- Q You don't know yourself about who your father or mother belonged to or anything about the war times, you are too young? A No, sir, I don't remember very much about back that far.
- Q Where are your witnesses? A Crap Lynch.

Allen
Anderson Lynch, being duly sworn by Commissioner Needles, testified as follows:

Ab Buffington - 2.

Mr. Smith: State your name? A Allen Lynch.

Q Where do you live? A Live here in Vinita.

Q How long have you lived in Vinita? A Five years I believe.

Q Are you a Cherokee Freedman citizen? A Yes, sir.

Q On the authenticated roll? A Yes, sir.

Q Do you know Ab Buffington, the applicant in this case?

A Yes, sir.

Q How long have you known him? A Known him ever since he was born.

Q Where does he live? A He lives in Vinita now.

Q How many years has he lived in Vinita? A I don't know, I can't tell you how long he has lived here, he was here before I came here.

Q How long have you been here? A I been here five years.

Q Where did you know Ab Buffington first? A Why I knowed Ab Buffington ever since he was Ab Buffington.

Q Where was he first Ab Buffington? A Up here close to Beatty's Prairie.

Q Well, at what point; in the Cherokee Nation? A Yes, sir.

Q Who was his father? A Bill Buffington

Q Who was his mother? A His mother was, I can't call her name, but she used to belong to McLaughlin.

Q You don't remember her name? A I know her name if I could just think of it; she used to belong to ~~McLaughlin~~ McLaughlin.

Q Do you know who Ab's father belonged to? A Yes, sir, he used to belong to Hooley's stepmother.

Q What was her name? A Mrs. Bell; they used to call her Sabra Buffington.

Q She was a Cherokee citizen? A Yes, sir.

Q Was the McLaughlin that you spoke of a Cherokee citizen? A Yes, sir.

Q Was A's father and mother married or did they live together as man and wife? A They lived together as man and wife, yes, sir.

Q When? A Well, when I first came down here they were living together as man and wife.

Q Where was that? A I came down here in 1866 and they were here and they were living together as man and wife.

Q Where was the boy Ab at that time? A Well, he had two or three children, they had that child with them, I can't tell you whether it was Ab or Bill or somebody else; they were there, they all were there, they had some children.

Q Has Ab any brothers and sisters? A I think he has two or three.

Q What are their names? A Bill, and had a girl, I can't remember what her name was.

Q Do you know whether she is single or married? A No, sir, she was single when I used to know her.

Q Do you know whether this man Buffington, Ab's father and mother, either of them went out of the Cherokee Nation or not, of your own knowledge, or do you know about that? A Well, we left old Uncle Bill and his wife here when we went away and when we come back he was there, I don't know whether he went out or not.

Q When did you go away? A I went away in 1862, I believe, and I came back here in February, 1866, and he was here when I come back, he was here when I went away and he was here when I got back.

Q Where was he living when you went away? A Living at Mrs. Buffington's or Mrs. Bell's.

Q Where was he living when you came back? A If I don't mistake he was living right at them or a mile or two this side of them.

Q Where was that? A That is all -- I forget the place, but he was up there on what we called Beatty's Prairie.

Q Do you know how many children they had altogether? A When we came back, no, sir, I don't.

Q Do you know whether any other children were born after that or not? A After we came down, yes, sir, I think two or three, I can't tell you exactly.

Q Can you remember their names? A No, sir, I can't tell you the names.

Q Do you know whether they were boys or girls or how about that?

A I think he had three boys and seems to me like he had two

Ab Buffington - 3.

girls, I will not be sure, I think he had one girl and two boys, but I don't know how many he did have because I didn't visit him very much; I knew him all right.

By L. B. Bell, Cherokee attorney: All, how far did you live from Bill Buffington in 1862 when you left here? A From old man Bill Buffington, on Beatty's Prairie?

Q You know where he lived. A I didn't live far from Buffington, that Bill Buffington, I didn't live more than about six or eight miles.

Q In 1862? A When we went out of here he ~~was living~~ lived over here on Cabin Creek and we lived over on Grand River, that wasn't his father.

Q Well, we are talking about Ab's daddy now. A Well Ab's daddy lived up at Beatty's Prairie and we lived thirty miles this side.

Q You say that Bill Buffington was up there about Beatty's Prairie when you left here; how do you know that? A When I came there from McCullough's army I came right up there and I saw Uncle Bill there, when I run away from McCullough's army on that little prairie close to Maysville, and when I passed I passed old Uncle Bill there, that is how I know he was there, I stayed part of the night with him.

Q Where did you run away from the army at? A I run away from the army on, I can't tell you the prairie, I can tell you the man I was working for; they had camped on, what do they call that prairie? I was working for Capt. Kelly, I was hired to him, old Kelly's brother was a captain in the Rebel Army and I was waiting on him, and I left them there and when I come on down coming to Grand River I come on to Bill's and stayed part of the night.

Q What was in 1862? A Yes, sir, just before the Pea Ridge fight.

Q Well, where was Bill living? A He was living right then with the old lady on the old Buffington place to my best knowledge, he was right there.

Q Now I will begin again with you; where was Bill living in 1862 when you left this country, when you ran away from the country?

A Well I am telling you just where I found him; there is where we left him and when I come back he was here, I tell you just how it was.

Q You ran away from here in July or August, 1862, somewhere along there? A No, I came down on Grand River and when I got down to Grand River Jim Bell took me and Grap and Spence and carried us to Fort Smith, that was just after the Pea Ridge fight.

Q Come down to where we are at; I want to know where you were at in 1862, in August? A In August, well I went to Kansas.

Q Where were you at before you started to Kansas? A I was down on Grand River.

Q Where at? A Down there on what was called the Brice Adair place.

Q How far from that salt lick, from the old Saline salt works?

A Must be five or six miles.

Q Down the river? A Down the river.

Q There is where you started from for Kansas, is it? A I started for Kansas from here.

Q That is the time I want to get at; about then where was Bill Buffington was living, the old man we are talking about? A I can tell you the last time I seen him, I seen him at the old lady's house, I can't tell you, he might have been in Texas for all I know.

Q How many children did he have there with his wife when you stopped and stayed with him when he you ran away from McCullough's army?

A Well Mr. Bell, I can't really tell you, he might have had three or four, he might have had only two.

Q Come as near as you can? A I can't tell you, I knowed like folks and stayed there and stayed part of the night.

Q That was about in 1862? A '62, it was in the winter; I know it was in the winter because I went down to Fort Smith, and I left them there and come back here, me and Grap, and in the summer why then

Ab Buffington - 4.

is when the northern troops came down.

Q You state that you left McLaughlin's army just a little before the battle of Pea Ridge, or Elkhorn? A Yes, sir.

Q You came then directly to Beatty's Prairie and stayed all night with William Buffington? A With old Bill Buffington, yes, sir.

Q Then you went from there you say here on Grand River? A On Grand River, yes, sir.

Q That is the time we are talking about; and you say at that time he had two children or more; you can't tell how many more?

A I don't remember how many he had; I wouldn't say he had ever one to my certain knowledge.

Q You have begun with three and you have got down to one? A I am saying I don't know how many he did have.

Q As a matter of fact did he have a one? A Yes, sir, I know he had one or maybe had two, he might have had three, I didn't pay no attention to them.

Q And then you just suppose that he was up there when you went to Kansas; you don't have any certain knowledge that you left him there?

A When I went to Kansas I can't say he was there, no, sir.

Q When you returned and found him in '66 where did you find him?

A I found old Uncle Bill, let me see where was the first place I seen him; I seen old Uncle Bill on Beatty's Prairie, I don't know just exactly what place I saw him; I can't remember just where I first saw him when I saw him in 1866, but I think it was on the Ward, not far from one of them Ward places, this side of Mayville; me and McCreary went up there and there is where I saw him.

Q What time in 1866 was that? A I can't tell you, it was either in October or September, I went up there to work on the old Taylor place, I can't tell you exactly, it was along that time we went up there and old Uncle Bill was up there.

Q In September or October of 1866? A Somethin' along in those months, I can't just tell you what day of the month.

Q How many children did he have then? A I don't know, I can't tell you.

Q Were you not at his house? A Yes, sir, but I can't tell you exactly how many children he had.

Q Did he have one or two or two or three children? A To my recollection he had two or three children.

Q Well you have stated that you knew ~~somebody~~ Ab from the day he was born? A Well, I am stating about the family.

Q That would necessarily almost follow that you knew the family?

A Yes, sir, I knew the family.

Q And how many children did he have when you saw him in 1866; he only had two in 1866? A To my best recollection I think he had three children, maybe four, I don't know, I have done forgot.

Q Did you see old Bill Buffington at all in 1866, anywhere or any place? A Yes, I saw old Bill Buffington, yes sir I did, I talked with him and was with him.

Q Who was there with him at his place in 1866? A When I saw him, why the family was there, just his family and me and old man McCreary.

Q Was his wife there? A Yes, sir, his wife was there.

Q And his children were there? A Yes, sir, she was there and he had some children there.

Q Who was his wife? A It was this McLaughlin woman, I knew her well but it has slipped out of my recollection who she was, but she was there and had those children.

Q Who did she belong to? A Well, I think she belonged to Andy McLaughlin, if I don't mistake; she belonged to one of them McLaughlins. I will not be certain which one she belonged to; I can't tell you who her owner was, she was the niece or the sister of Dr. Will's wife.

Q How long did Bill live by Beatty's Prairie after you knew him there in 1866? A Well, I don't know, it seems to me, if I recollect right, he might have the next year or the next year after that moved down on Grand River, then he left there and I don't know where he

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went to.

Q Left where? A Left from Grand River, I don't know where he went, he went up with Hill Thompson.

Q You were over there about a month or two? A I stayed up there six or eight months, I went to Missouri from there; I can't tell you just exactly, it is a long time and a man can't recollect all these things.

Q I see your recollection is bad at particular instances. A Put anything particular to me and I might tell you.

Q Didn't Bill move up to Kansas after you came down here? A Well if he did I don't know it.

Q You don't know at all that he ever went back to Kansas in after '85? A Yes, sir, I know he went back to Kansas.

Q Well, that is what I asked you, if he didn't move up to Kansas?

A I don't know whether he moved up, but I know he went there.

Q When did he go? A I can't tell you just exactly when he went but he had a son called Dan and Dan was at Kiah Oswego and he wrote for the old man to come after him and the old man went after him, but just exactly the time when he went I can't tell you; while he was up there Dan died and the old man came back, and I can't tell you when he came back.

Q When did the old man settle down here on the river, if at all?

A He stopped down here.

Q Did he ever take up any residence? A I don't know whether he did or not, that is out of my recollection, I don't know what he ever made a farm, I don't believe he ever made any farm to my knowledge, but lived with Jack Davis and Joe Thompson and Dick Martin; I don't know whether he ever made him a farm or not.

Anderson Lynch, being duly sworn and examined by Commissioner Needles, testified as follows:

Q Your name is Anderson Lynch? A Yes, sir.

Mr. Smith: Where do you live? A On Grand River.

Q How old are you? A I am about 64.

Q How long have you lived in Grand River? A Been living there all my life, raised up there.

Q Do you know this applicant in this case, Ab Suffington? A Yes, sir, I know him.

Q How long have you known him? A I have been knowing him ever since he was a little bit of a thing.

Q Where has he been all the time since you have known him? A I saw him after he left his father, I would come here and see him once in a while I was in Vinita.

Q About how many years old would you judge him to be and about how old was he when you first knew him? A I don't know, I can't tell exactly.

Q You can state whether he was a little bit of a boy or a big boy?

A He was a good size boy, running all about when I brought them down here.

Q Did you know his father? A Yes, sir.

Q Who was his father? A Bill Suffington.

Q Who was his mother? A His mother was — I disremember her name now; I know her name well, but it has just got out of my mind.

Q Would you know it if you were to hear it called? A Yes, sir.

Q How do I know it? A Yes, sir, Missie, that was her name.

Q Do you know whether Bill Suffington was out of the Cherokee Nation or not during the war? A He must have; when I saw him last known him he was at Mound City with his brother Bill.

Q Where is Mound City? A It is up in Kansas on Big Sugar they call it.

Q And when did you know him? A That was in 1866, winter of 1866 I think.

Q Do you know when Bill Suffington came back, if he ever came back, to the Cherokee Nation? A Yes, sir.

Q Well, when did he come back? A He came back just a while before

Ed Buffington - 6.

Christmas, old man Steve came down in 1866 and he came down and got me to haul a load down for him that winter, and just before Christmas we came back here.

Q What Christmas? A That was Christmas of '66 I think.

Q Who was that got you to haul a load? A That was Uncle Steve, Bill Buffington's brother.

Q Well, anybody come back with you at that time? A Well, it was just them, old Uncle Steve had two stepchildren, they were along, they were coming back with us, and old Uncle Bill's woman, and I think she had two children with her, he didn't have nothing but just his things, they had picked him up about Maysville and Steve went and got him and hauled him up to his house.

Q Then what became of him? A After he hired me to go back I run onto them and he loaded his things in and came with them.

Q Who came with you? A Uncle Bill Buffington, and came back here on the river.

Q Where did you come back to when you came to the Cherokee Nation, what river did you come back to? A Grand River, here across the river, I hauled them over on the Lynch place and he then moved and started out and went to Beatty's Prairie.

Q What was Bill Buffington and his woman? Yes, sir.

Q And how many children? A There was two children, one they called Abstance, and I disremember the other one's name, I think one they called Bill.

Q Where did you leave them when you brought them back? A I left the right there by Sam Wards in a little log cabin that they were putting up this side of Maysville, I expect you know where it is.

Q Go ahead now and tell what you know; at what place this side of Maysville did you leave them? A It was close to where Sam Ward had a mill on this side of Maysville.

Q Do you know where Bill Buffington died? A He died down here to Jack Davis'.

Q Where is that? A That is across by Cabin Creek.

Q When did he die? A I don't know sir just exactly.

Q Can you tell about how many years ago it has been? A It must have been maybe six or seven years, I don't know just exactly, it hasn't been so powerfully long.

Mr. Bell: You don't know anything about when Bill Buffington went to Kansas? A No, sir, I don't know when he went.

Q You hadn't seen him for a long time prior to '68 when you went off to Kansas? A No, sir, I didn't see him till '66, he was with Uncle Steve when I run onto him.

Q All you know about his whereabouts is what you have seen after you found him at Mound City? A Yes, sir.

Q What time did you leave your place down here and go up in Kansas for Steve's family? A Just about frost was beginning to fall, I can't tell you exactly what time, it wasn't quite time to gather corn, and they come back and helped me to gather my corn after we got back, it was near about Christmas when we got back.

Q You say you went after Steve and Bill come along with you?

A Yes, sir.

Q Did he come with you to your place on Cabin Creek here? A He went with me over there to the Lynch's place.

Q The Lynch place across the river? A Yes, sir, and Steve went on the old place they used to live on and Uncle Bill went on up to Maysville and got me to fetch a load for him up there to Sam Wards.

Q Who was it helped you gather your corn? I thought you said he helped you gather the corn? A Both helped me and I hauled a load for him up there, right in there by Sam Wards' Mill. I am not acquainted much in there.

Q Where was this corn gathered at? A It was gathered over there on the Lynch place.

Q How long was he gone up to Beatty's Prairie before he came back down here? A I don't know sir just exactly, I never kept track of

if, I know he was up there a good while before he came back here, and him and his wife were split up when he came back.

Q He had two boys when you seen him at Mound City? A Yes, sir, two boys.

Q How large was Ab when you saw him at Mound City? A Not larger
He wasn't a bit over that high (indicating).

[illegible]

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Prince C. Jones

W. H. Dickinson

Continued on p. 10.

V-374

Department of the Interior,
Commission to the Five Civilized Tribes,
Tulsa, I. T., May 21, 1901.

In the matter of the application for enrollment as a Cherokee Freedman on Card D-374, it is ordered that the testimony taken in the application of William Buffington on Card D-375 be made a part of the record in the case of said Buffington; a copy of the same to be filed in the said case of Mr. Buffington D-375.

W. H. Harrison

Commissioner.

FILED
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ACTING CHAIRMAN

File with Cherokee Freedmen B-574, Ab Suffington.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 15, 1901.

In the matter of the application of Ab Suffington for enrollment as a Cherokee freedman.

Testimony introduced on behalf of Cherokee Nation.

Appearances:

Mellette & Smith, attorneys for applicant;
J. S. Davenport, of counsel for Cherokee Nation.

J. L. WARD, being duly sworn by Commissioner Needham, testified as follows:

Mr. Davenport: What is your name? A J. L. Ward.

Q Where do you live? A I live near Mayville, three miles west, three and a half.

Q How old are you, Mr. Ward? A 50.

Q How long have you lived in the Cherokee Nation? A I have lived there all my life except during the war.

Q At what point in the Cherokee Nation was you living when the war broke out? A Right where I am living now, within half a mile of it.

Q What is this known as, what was it known as? A It was known as the George Ward place.

Q How far is it from Beatty's Prairie? A It is right on the edge of Beatty's Prairie.

Q Do you know where the Bill Suffington place was before the war, or the Bell place? A Yes, sir.

Q Where they lived, on the prairie? A They were just one mile east of where I lived.

Q Did you know a slave that belonged to Mr. Suffington by the name of Bill or William Suffington? A I knew a Bill Suffington.

Q Where was he, if you know, at the breaking out of the war? A He was there at the Bell farm.

Q Do you know what became of him during the war? A No, sir, I don't.

Q Then did you return to that locality in the Cherokee Nation where you had previously lived, after the close of the war? A When I returned down there, it was in November, '65.

Q Well, have you resided continuously in that locality since that time? A No, I have been in the army three years.

Q I mean since '65 have you resided continuously in that locality?

A Yes, sir.

Q Have you seen this colored man, Bill Suffington, since the close of the war? A Yes, sir.

Q When and where did you see him after the war closed? A He come back there, as well as I remember, in '68 or '9.

Q Come back to what point, Mr. Ward? A Over in about a mile and a half or two miles of his former residence.

Q Do you know whether or not he raised any children after the war or had any children? A Yes he had a whole family of them, but I didn't know any of them.

Q Did you ever know the names of any of them? A No, I can't say that I did.

Q Is there any of them living over there in that locality now?

A No, sir.

Q You know what became of them or where they are living? A No, they moved over near here some place I think.

Q Well you were there on Beatty's Prairie after you returned in '65 during '66 and '7, were you? A Yes, sir.

Q Was this man Bill Buffington and his family there? A No, sir.

Mr. Hollette: You don't know when he came back to this country after the war? A He came back in about '88 or '89. I know he wasn't there in '66 and '7.

Q How do you know when he came back to the Cherokee Nation? A I was there.

Q Can you swear he wasn't in the Cherokee Nation before you saw him? A Oh no, but he wasn't in that locality.

Q You say '88 or '89? A Yes, sir.

Q Which was it? A Well I don't know positive.

Q Why do you say it was '88 or '89? A Because he wasn't there in '66 and '7.

Q How do you know he wasn't? A I was there.

Q Why can't you say positive when he did come there, if you can say he wasn't there in '67? A Because I can't remember.

Q Now can you tell he wasn't there in '67? A Because I know he wasn't; if you were at a certain locality at a certain time, don't you know whether there is anybody else there?

A No, and no man living can swear it for 25 or 35 years. A Well there wasn't any in '66 there.

Q You swear then just because there wasn't any in '66 there? A No there wasn't any in '66 there.

Q And how much of that country did you range over? A I can't tell you exactly, fifty miles square I guess.

Q You watched every man in fifty miles square, did you? A There was very few men in fifty miles square.

Q Did you cover it all, ride over fifty miles square? A At times.

Q At all times? A No, not all times.

Q Did you watch every man that lived in that square? A No, sir.

Q Did you see every man that was in fifty miles square in '66? A I guess I came very near it.

Q Do you swear you did? A No.

Q Were there any colored people within fifty miles square there? A Yes, there was within fifty miles square, there was colored people.

Q How many? A I can't tell you.

Q There was a good many, wasn't there? A No, there wasn't.

Q What were you doing ranging over fifty miles square? A Well sir I taught school in the fall of '66 and the spring of '67 and I had business in Tahlequah and I had business up here and business in Baxter Springs.

Q Well I know, but that didn't take you all over every acre of fifty miles square? A I didn't say I went over every acre.

Q How did you know who lived in that fifty miles square? A I didn't say I knew who lived in that fifty miles square I don't believe.

Q You did a while ago, you said you knew everybody who lived in fifty miles square? A I beg leave to differ.

Q What did you say about fifty miles square? A You asked me how far I ranged over. What doesn't say I know every man in fifty miles square.

Mr. Davenport: You lived in about a mile of the Buffington and Bill place on Baxter Prairie where this fellow had been formerly owned? A Yes, sir.

Commissioner: This testimony will be made part of the record in the case at bar and also part of the record in Cherokee Freedmen case No. 2-376.

Mr. Davenport: I would also like to make it a part of the record in D-72 and D-433.

Commissioner: This will be done.

Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereon.

Bruce G. Jones

Subscribed and subscribed before me this the 7th of November, 1901.

[Signature]

Commissioner

COMMISSION TO THE FIVE CIVILIZED TRIBES
DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

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unpublished and known to before me this 28th day of April, 1903.

into notes thereof.

That the foregoing is a true and complete translation of the stenographic notes in full the testimony and proceedings in the above case, and especially to the commission to the five qualified jurors he is authorized to compound being that with sworn, before that he

and in the case of per, No. D-244.

of the record in the foregoing Cherokee Freeman case: No. D-242

COMMISSION: This testimony will be filed with and made a part

of the said his unsworn books, with kind of witnesses in them.

That is the only book that I have except his charges; he has

6 that is the only book of the kind that he ever kept in it. V

6 I had one in '88. V And one goes on to '88.

6 So he had some sports in '88.

6 I think here and there, so that I couldn't pick out anything for

only except with other things you know; he was unsworn and he would

have, '88. V He kept no book like this; that is, he never kept it

that said specimens, as it is. V And it is all I know.

MR. DAVENPORT: Will you know sports in it, relationship to what

6 and that is the one you are speaking of? V Yes, sir.

6 I suppose, V Yes, sir.

6 I suppose, V Yes, sir.

6 I suppose, V Yes, sir.

6 The witness Brinkman and you are speaking of sports in a prophet to

you, I remember it; it, that is, you, I remember it.

6 I have no remembrance of any children; perhaps they had but I

6 and you don't remember, perhaps they had and children or not?

6 Yes, V Yes, sir.

6 Well now, in the last, as you saw they lived in jail a wife of

6 remembrance that he did.

6 I don't look for him in the last, '88. V I think not; I have no

6 witness that says that I work of.

6 William Brinkman asked for your husband, V Yes, sir, and so-

6 will you know in that during the last, as a man by the name of

6 and you know his presence, a name, V Stephen Packer

6 originally came to stay in a prophet and that, as it I know.

6 You don't know where William Brinkman was, either, do you, in

6 know; I have no remembrance of where they lived.

6 Well now, the season of '88 where did they live, V I don't

6 and they were there, V That was the season of '88.

6 They lived perhaps a half a mile.

6 How far did you live from your house, V For one season

6 did you have any children, V I have no remembrance.

6 I don't know, but I don't remember; I had no seductiveness with her.

6 I don't know, I have no remembrance of it; I never heard of it.

MR. BROWN: What was William Brinkman's wife's name?

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

6 Yes, to say

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., April 19, 1902.

In the matter of the application of Ab Buffington for enrollment as a Cherokee Freedman.

Applicant appears by Lewis T. Brown, representing Mollette & Smith, Vinita, I. T.
Cherokee Nation represented by James S. Davenport.

JOSEPHINE HUMISTON, being first duly sworn, testified as follows:

Q. MR. DAVENPORT: What is your name? A. Josephine Humiston.
Q. Where do you live, Mrs. Humiston? A. I live in Linn County, Kansas.
Q. What is your postoffice? A. Farlinville.
Q. How old are you? A. I am 57.
Q. How long have you lived in Linn County, Kansas? A. I came there in the spring of '87.
Q. Where were you living at the close of the war? A. Living in Linn County, Kansas.
Q. Did you ever know a colored man by the name of William Buffington up in that country? A. Yes, sir.
Q. About when did you first get acquainted with him? A. I can't give any exact date when I first saw him.
Q. Well, where did he live after you did get acquainted with him with reference to the place you lived on? A. The place he occupied at the time I have the most remembrance of him was the place that cornered with mine south and west.
Q. About how long did he live there? A. One season.
Q. One crop season? A. One crop season.
Q. When did he go away with reference to the time Daniel Lynch—or Stephen Lynch, I mean, went? A. He went away with Stephen Lynch, went away together.
Q. What was your name at that time, Mrs. Humiston? A. Josephine Emerson.
Q. What was your husband's name? A. William B. Emerson.
Q. Do you know whether or not your husband had any dealings with William Buffington? A. He hired him at times.
Q. Did William Buffington have a family at that time? A. He had a wife; I have no remembrance of any children.
Q. You have no recollection as to whether he had any children? A. No, sir.
Q. Do you remember what his wife's name was? A. No, I don't even remember his wife's name; if I ever heard it I don't remember it.
Q. Do you know whether or not your husband kept any memorandum of the transactions between him and William Buffington in the way of a book account? A. Yes, sir, he had a book account.
Q. Where is that book, if you know? A. I have it in my possession.
Q. In whose possession has it been—or is your husband living? A. He is dead.
Q. In whose possession has it been since his death? A. It has been in my possession all this time.
Q. Would you recognize your deceased husband's handwriting if you should see it? A. Yes, sir.
Q. I wish you would examine page 12, at the top of the page in the book that I now offer you, and see whether or not the account there is in the handwriting of your deceased husband, William B. Emerson? A. Yes, sir, that's in his handwriting; I would recognize that anywhere.
Q. The representatives of the Cherokee Nation offer that portion of page 12 which relates to an account between William Buffington, which has been shown by the witness to be in the handwriting of her

deceased husband, William B. Emerson.

'18.

August A. D. 1867

Mr.

Wm. Buffington.

A. D. 1867

Gr.

August 24, By 2/28 of a month

18

1 54

" 31, By 6/28 of month,

19

4 61

Sept. 2nd, By 1/28 of a month

19

77

" 18 & 19,

"

" 21st, To cash

21

6 32

MR. KNOW: What was William Buffington's wife's name?

A I don't know, I have no remembrance of it; I never heard it— of course I did, but I don't remember; I had no acquaintance with her.

Q Did she have any children? A I have no remembrance.

Q How far did she live from your house? A For one season they lived perhaps a half a mile.

Q What year was that? A That was the season of '87.

Q Well now, the season of '88 where did they live? A I don't know; I have no remembrance of where they lived.

Q You don't know where William Buffington was, either, do you, in the year '88? A No, I don't; I don't know where he was; he occasionally came to visit his brother and that's all I know.

Q What was his brother's name? A Stephen Lynch

Q All you know is that during the year '87 a man by the name of William Buffington worked for your husband? A Yes, sir, and occupied this place that I speak of.

Q Didn't work for him in the year '88? A I think not; I have no remembrance that he did.

Q Well now, in the year '87 you say they lived in half a mile of you? A Yes, sir.

Q And you don't remember whether they had any children or not?

A I have no remembrance of any children; perhaps they had, but I don't remember it; if they had any I don't remember it.

Q The William Buffington that you are talking about is a brother to Stephen Lynch? A Stephen Lynch, they were brothers.

Q Brother? A Yes, sir.

Q And that's the one you are testifying about? A Yes, sir.

MR. DAVENPORT: All you know about their relationship is what they said themselves, is it not? A That is all I know.

MR. KNOW: Where is that book that your husband kept for the year '88? A He kept no book like this; that is, he never kept it only mixed with other things you know; he was surveyor and he would itemize here and there, so that I couldn't pick out anything for '88 to be positive about it.

Q Keep one in '88? A This one goes on to '88.

Q This is the only book of the kind that he ever kept is it? A That is the only book that I have except his diaries; he has diaries and his surveying books, with kind of mixtures in them.

COMMISSION: This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. B-375 and in the case at bar, No. B-374.

Arthur C. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 24th day of April, 1902.

Notary Public.

Approved at the United States Department of the Interior

Handwritten signature

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D. C.

(Copy)

Received by the Bureau of Land Management
August 1, 1906

Specimens of land were deposited in the Bureau of Land Management

August 1, 1906

The following specimens of land were deposited in the Bureau of Land Management
August 1, 1906

80374

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D. C.

AUG 1 1906

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August 1, 1906

74

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Hallett & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of *Keese Whitmire, Trustee for the Freedmen, vs The Cherokee Nation*, No. 17209, filed in the *Mariah Hayden* case, E D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said *Mariah Hayden*, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Ab Baffington, D 374;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of *Mariah Hayden* will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the *Mariah Hayden* case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitacre, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the Judgment roll of said Court in the proceedings referred to the Motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

A. F. M. ¹¹

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Mary Hemitte et al., as Cherokee Freedmen, consolidating the
applications of--

Mary Hemitte,
Ab Buffington,
William Buffington,

Cherokee Freedman D 79,
Cherokee Freedman D 374,
Cherokee Freedman D 375.

--1--

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Mary Hemitte for herself; by Ab Buffington for himself; and by William Buffington for himself:

The evidence herein shows that the applicants were born since the commencement of the rebellion, that they are the children of William and Lizzie Buffington, and possess no rights to enrollment other than as descendants of their said parents; that the said William and Lizzie Buffington were the slaves of Cherokee citizens at the commencement of the rebellion; that they were taken from the Cherokee Nation during said rebellion, and that neither they nor any of the applicants herein returned thereto within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, and, except that the names of Ab and William Buffington appear upon the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that

-2-

the applications for the enrollment of Mary Hewitt, Ab Darrington,
and William Darrington as Cherokee Freedmen, should be denied,
under the provisions of Section twenty-one of the Act of Con-
gress approved June 28, 1906 (34 Stat., 495), and it is so ordered.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

SIGNED.

Tamie Bixb

Chairman.

SIGNED.

T. B. Needles.

Commissioner.

SIGNED.

C. R. Breckinridge.

Commissioner.

Dated at Muskogee, Indian Territory,

this FEB 24 1905

20 394
DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUN 17 1901

ACTING CHAIRMAN

COMMISSIONERS:
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRADKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Ab Buffington for enrollment
as a Freedman of the Cherokee Nation, one copy of the original
testimony of May 21st, 190.

Melville Smith

Attorney for Applicant.

Cherokee F. #D574.

70374

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of A. D. 1901.

Given under my hand this.....
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
..... day of, 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this..... day of A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 16 1901

ATTEST CLERK

NOTICE!

IN THE MATTER OF The application of A. B. Buffington
for enrollment as a Cherokee Freedman:

Case No. F. D. 374

To A. B. Buffington or Melette & Smith

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct. 14th at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 10 1901, 1901.

L B Bell

Attorneys for the Cherokee Nation.

*Service of above
notice accepted
Sept 13 - 1901
Maurice J. Smith
attys.*

F. D. 374

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190.....

Given under my hand this
day of A. D. 190.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

19 day of Apr 1902
Mellitt & Smith
Attorney for Applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190.....

Subscribed and sworn to before me
this

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
APR 19 1902
[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Al Buffington,
for enrollment as Cherokee Freedmen:

Case No. F. D. 474

To Al Buffington or Elletta S. Smith his attorneys:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on April 19, 1902, at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this April 19, 1902.

L B Bell

*W. W. Hastings
Jas. S. Davenport*
Attorneys for the Cherokee Nation.

Cherokee Freedman

B-316.

Muskogee, Indian Territory, September 14, 1904.

Al. B. Hurlington,

Vinita, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of September 8, asking to be advised as to the status of the application for your enrollment as a Cherokee Freedman.

In reply you are advised that the Commission has not yet rendered a decision in your case. When a decision has been prepared you will be furnished with a copy.

Respectfully,

Chairman.

COPY.

Cherokee Freed-
man D-274.

Muskogee, Indian Territory, December 8, 1904.

A. B. Buffington,

Vinita, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of December 5, asking to be advised as to the status of your application for enrollment as a citizen of the Cherokee Nation.

In reply you are advised that the Commission has not yet rendered a decision in the matter of your said application. When a decision has been prepared you will be furnished with a copy.

Respectfully,

SIGNED

James E. Kirby

Chairman

JD

COPY.

Cherokee Freedman
D-72 et al.

Huskogee, Indian Territory, February 24, 1908.

Hell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Huskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 24, 1908, rejecting the applications for the enrollment of Mary Kemitte, Ab and William Buffington, as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. 1-80.

SIGNED.

Tams Bixby.
Chairman.

COPY

Cherokee Freedmen
B-70 et al.

McKee, Indian Territory, February 24, 1906.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the applications for the enrollment of Mary Kewitt, Ab and William Buffington, as Cherokee freedmen, including the Commission's decision, dated February 24, 1906, rejecting said applications.

Respectfully,

URGENT.

JAMES BROWN

Commissioner in Charge

Encl. L-2.

Through the
Commissioner of Indian Affairs.

COPY:

Cherokee Freedman
D-374.

McKehee, Indian Territory, February 24, 1906.

Ab Buffington,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 24, 1906, rejecting, among others, the application for your enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED) *Tams Bixby.*
Chairman.

Encl. 1-46.

Register.

COPY

Cherokee Freedman
D-376.

Muskogee, Indian Territory, February 24, 1905.

Edgar Smith,

Attorney for Ab Buffington,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, rejecting, among others, the application for the enrollment of Ab Buffington as a Cherokee freedman. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

SIGNED.

Tams Bixby.
Chairman.

Encl. 1-47.

Register.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND;
16632-1908.

March 9, 1908.

The Honorable,

The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated February 24, 1908, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Mary Hemette for herself; by Ab Buffington for himself, and by William Buffington for himself.

February 24, 1908, the Commission decided adversely to all the applicants.

The record shows that the applicants were born since 1865; are the children of William and Lissie Buffington and possess no rights to enrollment other than as descendants of their said parents; that the said William and Lissie Buffington were the slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during said war, and that neither they nor any of the applicants returned to said Nation on or before February 11, 1867.

In view of the record the approval of the Commission's decision adverse to all the applicants is recommended.

Very Respectfully,

G. F. Larrabee,
Acting Commissioner.

mm (v)

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

Jr.

L.L.B.

D.C. 20732
I.E.D. 2276-1905.
L.R.S.

May 22, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 24, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the applications for the enrollment of Mary Hemitte, Ab Buffington, and William Buffington as Cherokee freedmen, including its decision of the same date rejecting said applications.

On September 7, 1905, the attorneys for the applicants in this case filed a motion for review of the decision of the Commission. There appears to be no sufficient reason for the granting of said motion, and it is hereby denied.

Reporting relative to this case March 9, 1906, the acting Commissioner of Indian Affairs recommended that the Commission's decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and the decision of the Commission dated February 24, 1905, is hereby affirmed.

Respectfully,

Jesse H. Wilson,

Assistant Secretary.

1 inclosure.

Cherokee Freedmen

D-374.

Muskogee, Indian Territory, June 5, 1906.

Ab Buffington,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, rejecting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on May 22, 1906.

Respectfully,

LS

Commissioner.

Cherokee Freedmen

D-374.

Muskogee, Indian Territory, June 5, 1906.

Edgar Smith,

Attorney for Ab Buffington,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, rejecting, among others, the application of Ab Buffington for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on May 22, 1906.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. S-19
LS

Commissioner.

Cherokee Freedmen

D-79, et al.

Muskogee, Indian Territory, June 8, 1906.

Blue & Bulger,

Attorneys for Mary Hemitte, et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 24, 1906, rejecting the applications for the enrollment of Mary Hemitte, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior on May 22, 1906.

The motion filed by you September 7, 1906, for review in this case, is also denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. S-21
LS

Commissioner.

Cherokee Freedmen

D-79, et al.

Muskogee, Indian Territory, June 5, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, rejecting the applications of Mary Hemitte, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior on May 22, 1906.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. S-22
LS

Commissioner.

Muskogee, Indian Territory, October 25, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

May 22, 1906 (I.T.D. 2378-1906), the Department affirmed the decision of the Commission to the Five Civilized Tribes dated February 24, 1905, rejecting the applications for the enrolment of Mary Hemitte, Ab Buffington and William Buffington as Cherokee freedmen. July 19, 1906, there was filed with this office the following motion received from Starr & Patten, attorneys for applicants in this case:

"Comes now the applicants and move the Department to grant them a rehearing in this case in order that they may prove that the ancestors through whom they claim, William and Lizzie Buffington, returned to the Cherokee Nation after the close of the Civil War and established their residence therein prior to February 11, 1867.

We respectfully ask for twenty days time within which to file affidavits in support of this Motion."

On October 15, 1906, this office received from Starr & Patten the following letter addressed to the Commissioner to the Five Civilized Tribes dated October 13, 1906:

"In View of the Departmental decision in the Cherokee Freedmen cases of Jennie Martin et al we request that we

be allowed fifteen days additional time in the Cherokee Freedmen cases of Mary Nemitta, Ab Duffington et al in which to prepare a proper amended motion for reconsideration in that case."

The motion and letter referred to are inclosed herewith for the Department's action on their request to be allowed time within which to file a proper motion for a reconsideration of the Department's decision in this case.

Respectfully,

Incl. 8-5
LS

Commissioner.

Through the

Commissioner of Indian Affairs.

(C O P Y)

D.C. 108901-1906.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.F.Jr.

LLB

I.T.D. 21252-1906.

December 12, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On November 8, 1906 (Land 94574), the Indian Office transmitted your report dated October 26, 1906, in the matter of a motion for rehearing and request for time in which to file affidavits in the matter of the application of Mary Hamitte et al. for enrollment as Cherokee Freedmen.

A motion for rehearing, unsupported by affidavits, was filed with you July 19, 1906.

In said motion attorneys for applicants request twenty days within which to file affidavits in support of said motion.

On October 15, 1906, the attorneys for the applicants ^{re-time} requested fifteen days additional in which to file amended motion in this case, in view of departmental decision in the Jennie Martin case.

It is apparent that a sufficient and reasonable time has elapsed since the filing of the motion for the attorneys for the applicants to have filed the necessary affidavits in support of their motion. No amended motion appears to have been filed since

October 15, 1906. The motion for rehearing is denied.

The papers have been sent to the Indian Office for its files.

Respectfully,

Jesse E. Wilson
Assistant Secretary.

Through the Commissioner
of Indian Affairs.

7 inc. to Ind. Of.

Muskogee, Indian Territory, December 21, 1906

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed a copy of Department's decision of December 12, 1906, denying the motion filed by attorneys for the applicants, for a rehearing in the Cherokee freedmen case of Mary Hemitte et al.

Respectfully,

Encl. B-3

Acting Commissioner

Waskagee, Indian Territory, December 21, 1906

Starr & Patten,

Attorneys for Mary Hemitte, et al.

Vinita, Indian Territory.

Gentlemen:

There is enclosed a copy of Department's decision of December 12, 1905, denying your motion for a rehearing of the Cherokee freedmen enrollment case of Mary Hemitte et al. You have been verbally informed of the status of the case.

Respectfully,

L M B

Acting Commissioner

Encl. B-2

Muskogee, Indian Territory, December 21, 1906

The Honorable ,

The Secretary of the Interior.

Sir:

Receipt is acknowledged of Departmental letter of December 12, 1906 (I.T.D. 22262-1906), denying a "motion for rehearing and request for time in which to file affidavits in the matter of the application of Mary Kemitt et al., for enrollment as Cherokee freedmen." The Department states that the motion for rehearing, unsupported by affidavits, was filed with the Commissioner to the Five Civilized Tribes on July 19, 1906, and in said motion Attorneys for applicants requested twenty days within which to file affidavits in support of their motion, and on October 13, 1906, Attorneys for applicants requested fifteen days additional time in which to file an amended motion, and that it appears that a sufficient and reasonable time

7
Secretary-2

has elapsed since the filing of the motion for the attorneys to have filed the necessary affidavits in support of their motion, and that no amended motion appears to have been filed since October 13, 1906.

This office is now in receipt of a letter from the attorneys filing the motion referred to, dated December 15, received December 19, 1906, forwarding an "amended motion for rehearing", supported by affidavits. Said motion and the affidavits attached are enclosed for such action as the Department desires to take.

In the motion the attorneys request that the Commissioner advise the Department whether or not William and Lizzie Buffington, the ancestors through whom the applicants in this case claim the right to enrollment as Cherokee freedmen, were parties to a case decided by the Supreme Court of the Cherokee Nation in 1871. The Docket of said Court does not contain the names of said William and Lizzie Buffington.

In connection with this case the Department's attention is called to the enclosed motion for a rehear-

Secretary-3

ing of the Cherokee freedman case of Doras Buffington, which motion was received with a letter of the same attorneys filing the motion in the Hemitt case, dated December 15, received December 19, 1906.

The Commissioner to the Five Civilized Tribes on November 27, 1906, rejected the application of said Doras Buffington for enrollment as a Cherokee freedman, and the decision, together with the record of proceedings had in the case, was forwarded to the Department on November 27, 1906. Doras Buffington claims to be a brother of the principal applicants in the Hemitt case, and bases his claim for a rehearing of his case upon the showing made in the Hemitt case.

In order to protect whatever rights the applicants in the Hemitt case may have, the records of this office are made to show that their claims to Cherokee citizenship have not been finally determined.

Respectfully,

Through the

Commissioner of Indian Affairs.

Commissioner

Encl. B-1

COPY.

Land
108903-1906.
112787-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of December 12, 1906 (I.T.D. 22268-1906), denying a motion for a rehearing in the matter of the application of Mary Hemitts, et al., for enrollment as Cherokee Freedmen, I have the honor to transmit herewith a communication from the Acting Commissioner to the Five Civilized Tribes, dated December 21, 1906, enclosing an amended motion for a rehearing, supported by affidavits, filed in the Office of the Commissioner on December 19, 1906.

The amended motion for a rehearing is based upon the ground of newly discovered evidence, and is supported by affidavits of Ab Buffington, one of the applicants, tending to show that diligent search was made prior to original hearing for the evidence now sought to be introduced, and that he was unable to discover it in time to be used at that hearing. The affidavits in support of the motion are made by citizens by blood of the Cherokee Nation, with one exception, and he is a white man and a citizen of the State of Arkansas. All the affidavits tend to show that William Buffington, the father of the applicant in this case, was a slave of the Buffington family, Cherokee citizens, and that he did not

leave the Cherokee Nation during the Civil War. All of these affidavits have been made by parties whose age is sufficient for them to testify to the facts set out from their own personal knowledge. The former decision in this case was based on the alleged fact that William and Lizzie Buffington, the parents of the applicants, were taken from the Cherokee Nation during the Civil War and that neither of them returned to the Cherokee Nation within the time specified by the treaty of 1846.

The Office is of the opinion that the showing made in this case is sufficient to justify re-opening for the purpose of introducing the new evidence set out, and therefore recommends that the motion be granted and the case re-opened and remanded to the Commissioner to the Five Civilized Tribes for the purpose of taking additional evidence.

The record in the case is enclosed herewith.

Very respectfully,

SIGNED G. E. Larrabee,

Acting Commissioner.

EVE-W

--Copy--
DEPARTMENT OF THE INTERIOR,
WASHINGTON.

DIRECT.

I.T.D. 1680-1907.
B.C. 8766-1907.

JBY

S.P.

February 12 1907

LRM

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 112727-06), the Indian Office transmitted your report dated December 21, 1906, and a motion for review in the matter of the application for the enrollment of Mary Hemitte, et al., as Cherokee freedmen. You transmitted said motion for such action as the Department may deem proper.

The Indian Office is of the opinion that the showing made in this case is sufficient to justify reopening for the purpose of introducing new evidence and therefore recommends that the motion be granted and the case reopened and remanded to the Commissioner to the Five Civilized Tribes for the purpose of taking additional evidence. A copy of its letter is inclosed.

In view of section 2 of the act of April 26, 1906 (34 stat., 137), even if the motion presents a prima facie case for further hearing, the Department would not

be warranted in ordering the same.

The papers in this case, together with the motion filed in the matter of the application of one Dorcas Buffington, for enrollment as a Cherokee freedman, are inclosed herewith.

Respectfully,

SIGNED Thos Ryan,

First Assistant Secretary.

1 inclosure.
Carbon copy and
10 inclosures to Ind. Of.

Cherokee F. D.
79-374-375

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Vinita, Indian Territory.

Dear sirs:

You are hereby advised that the motion for rehearing of the Cherokee freedman case of Mary Hemitte, et al., filed by you July 19, 1906, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of the Department's decision.

Respectfully,

Enc. N-72

Commissioner.

EH

Cherokee F. D.
79-374-378

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear sir:

You are hereby advised that the motion for a rehearing of the Cherokee freedman case of Mary Hamitte, et al., filed July 19, 1906, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of the Department's decision.

Respectfully,

Enc. M-73

Commissioner.

MH

Cherokee F. D.
79-374-375

Muskogee, Indian Territory, March 7, 1907.

Ab Buffington,

Vinita, Indian Territory.

Dear sir:

You are hereby advised that the motion for a rehearing of your Cherokee freedman case, filed by your attorneys, Starr & Patton, July 19, 1906, was denied by the Secretary of the Interior February 12, 1907.

Respectfully,

MH

Commissioner.

VB.

FD. 374

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 21 1901

[Handwritten signature]

A. T. HALL, MAY

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

May 21st 1901

Post Office

Vienna, D.C.

District

Delaware

1. Name

Ab. Buffington

Age

26

Owner's name

Citizenship

Year

Hager

Page 103

No. 2195

District

Coo

Parents:

Father

Jm Buffington (dead)

Citizenship

Mother

Lizzie " (living)

Citizenship

2. Name of wife

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Oustful

Citizenship

Mother

Citizenship

Names of Children:

3.	Year	Page	No.	Dist.
4.	Year	Page	No.	Dist.
5.	Year	Page	No.	Dist.
6.	Year	Page	No.	Dist.
7.	Year	Page	No.	Dist.
8.	Year	Page	No.	Dist.
9.	Year	Page	No.	Dist.
10.	Year	Page	No.	Dist.
11.	Year	Page	No.	Dist.
12.	Year	Page	No.	Dist.

Application made by

Stenographer

No 1 in Hager Race pag 103, #2195. Coo

Mellette Ed Smith, atty. for applicant.

FD 377

6

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Ab Buffington,

Vinita, I. T.

Cherokee F-D-374,

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

Cher. Fr. R-876

Trans. from Cher. Fr. D 375

Cher. Fr. R-876

COMMISSIONER

Subscribed and sworn to before me this 10th day of July, 1901.

original as taken by stenographer J. C. Hobson.

Hemette, and that the same is a true and correct copy of the above testimony of Man Nakeva, taken in the case of Man Nakeva to the Commission to the Five Civilized Tribes that he copied the undersigned, being duly sworn, says that as stenographer

A Yes, sir; Master Tolman.

Q Is there any people here that knows this woman and this girl?

By Commissioner Neegles:

Q Must we get names of people?

By E. D. Beel:

specify these children here.

Q No, sir; she don't know nothing about her age and nothing about her name, I tell you. I don't know who her mother was and she could not be identified as to her name. It was never heard of by her. She is not of any tribe.

By Commissioner Neegles:

Q No, I know she is a girl, but I don't know her name.

Q Do you think she was somewhere of age if she were living? I don't think you think so. I don't think you think so.

Q Yes, taken from Man Hemette page 2.

CHAIRMAN

FILED
JUL 14 1901

DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C.

To be filed in case of William Buffington, D-375.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., April 18th, 1901.

In the matter of the application of Mary Hemitte for enrollment as a Cherokee Freedman.

Nan Mackey, being sworn and examined by Commissioner T.B. Needles, testified as follows:

- Q What is your name? A Nan Mackey.
Q How old are you? A About 47 I guess.
Q You are a Cherokee Freedman are you? A Yes, sir.
Q Now, do you know Mary Hemitte here? A Yes, sir, this is her.
Q How long have you known her? A I been knowing her all my days.
Q What was her mother's name? A Lizzie McLaughlin; Lizzie Buffington now, by her husband's name.
Q Was Lizzie Buffington a slave? A Yes, sir.
Q What was her owner's name? A Betsey McLaughlin.
Q Do you know whether her mother was taken out during the war between the Confederacy and the United States? A No, sir, she never was taken out.
Q To your knowledge, you are positive that she lived here during the war? A Yes, sir.
Q Was she taken out during the war? A She was taken out after; she went from here to Webbers Falls after the War.
Q Where was she taken? A Taken to Spavinaw.
Q Was she taken out of the Nation? A No, sir.

By L. D. Bell, Cherokee Representative:

- Q Did you know her while she lived up there? A She was my sister.
Q Was you up there with you? A We lived right in the same settlement, my mother did, I was quite small but then I recollect my sister well.
Q I am asking if you were there with her? A She never was taken out of the Nation as I knew of.
Q You stated that you knew that she was not; I am asking you if you lived up there with her? A Not when I was here in Fort Gibson.
Q She was not here in Fort Gibson all during the war? A I don't know where she was up in the Cherokee Nation.
Q Do you know when she married Bill Buffington? A No, sir, I don't.
Q You don't know anything about that marriage except what they told you about it afterwards, do you? A I know that she was Bill Buffington's wife.
Q You were not there with them, how did you know it? A I didn't live with him.
Q Did you live close up there? A No, sir, I told you I was here in Fort Gibson, until after she come down here with these children.
Q I am talking about this marriage between her and Bill Buffington?
A I don't know nothing about the marriage; they didn't let negroes marry in them days they just took up the best they could.

By Commissioner Needles:—

- Q Did they live together as man and wife? A Yes, sir.
Q Were these children born while they were living together as man and wife? A Yes, sir.

(The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and the name of Bill Buffington not found thereon.)

By W. W. Hastings, Cherokee Representative:

- Q Was your sister older or younger than you? A Older.
Q About how much? A I don't know.
Q Well, four, five? A She was a good deal.

Page 2- Taken from Mary Hemitte Page 2.

Q You years you think? A Older than that.

Q Do you think she was as much as 30? A Older than me.

Q Then she would be older than 30 years of age if she were living now? A I know she is a good deal older than I.

By Commissioner Needles:

Q You say she is not of sound mind? A No, sir.

Q She could not be qualified to testify if she were here? A No, sir, she can't tell anything except who her master was and her children. She don't know nothing about her age and nothing about these children here.

By L. D. Beal,

Q What was her name? A Lizzie.

By Commissioner Needles:

Q Is there any people here that knows this woman and this girl?

A Yes, sir; Luster Foreman.

The undersigned, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes that he copied the above testimony of Nan Mackey, taken in the case of Mary Hemitte, and that the same is a true and correct copy of the original as taken by Stenographer J. O. Rosson.

Subscribed and sworn to before me this 20th day of July, 1901.


Commissioner.

OFFICE OF THE ATTORNEY GENERAL
COMMONWEALTH OF MASSACHUSETTS
JULY 11 1961

TO THE HONORABLE THE ATTORNEY GENERAL
FROM THE HONORABLE THE COMMISSIONER OF THE DEPARTMENT OF
REVENUE
SUBJECT: [Illegible]

[The following text is extremely faint and largely illegible due to the quality of the scan. It appears to be a formal letter or report.]

VERY TRULY YOURS,

[Illegible Signature]

6 0000

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1902.

In the matter of the application of William Buffington for enrollment as a Cherokee Freedman.

William Buffington, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A William Buffington.
Q How old are you? A About 34 years old.
Q What is your best office? A Vinita.
Q What district do you live in? A In Delaware.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Desire to enroll anybody besides yourself? A Well I have a sister but she is sick and she can't be here, and her mother.
Q How old is she? A She is about 33.
Q Well, she will have to appear herself. Does your name appear upon the authenticated roll of 1880? A No, sir, I don't think it does.
Q On the Kerns-Clifton roll? A I don't think it is.
Q Never drew what is known as the strip payment? A No, sir.
Q Is your name to be found on the Wallace roll? A Yes, sir.
The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.
The 1886 census roll of Cherokee Freedmen examined and the applicant not identified thereon.
The Kerns-Clifton pay-roll examined and the applicant not identified thereon.
Q What was your father's name? A William Buffington.
Q Is he living? A No, sir.
By B. M. Rutherford, attorney for applicant: What is your mother's name? A Lizzie.
Q Is she living? A Yes, sir.
Q Is her name on the roll of 1880? A I don't think it is.
Q Were you born a slave? A No, sir.
Q Was your mother a slave? A Yes, sir.
Q To whom did she belong? A Andy McLaughlin.
Q Is she a Cherokee citizen? A Yes, sir.
Q Are you a brother to Ab Buffington? A Yes, sir.
Q Where were you born? A I was born on Beatty's Prairie.
Q In the Cherokee Nation? A Yes, sir, Delaware district.
Q You are a full brother to Ab Buffington? A Yes, sir.
Q William Buffington was his father? A Yes, sir.
Q And Lizzie Buffington was his mother? A Yes, sir.
Q Has your mother been enrolled? A Not yet.
The Wallace roll examined and the applicant identified thereon page 99, No. 2123, Saline district, Wm. Buffington.
By L. B. Bell, Cherokee attorney: How many children were there in the family of Bill Buffington? A There is four living and two dead.
Q You say you were born here in the Cherokee Nation? A Yes, sir.
Q About what year? A 1868.

Commissioner: Reference is made to the testimony taken in the application of Ab Buffington for enrollment as a Cherokee Freedman, whose name is enrolled upon doubtful card D-374, and the testimony taken in said case will be made part of the testimony in this application. Said William Buffington's name is not found upon any of the rolls in the possession of this Commission except the Wallace roll, and he is duly identified upon the Wallace roll and he will be listed for enrollment as a Cherokee Freedman on what is known as a doubtful card.

Supplemental testimony.

William Buffington - 2.

Luster Foreman, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Luster Foreman.
Q How old are you? A About 50 or 60 years old.
Q What is your post office address? A Vinita.
Mr. Rutherford: Are you a Cherokee Freedman? A Yes, sir.
Q And on the authenticated roll of 1880? A Yes, sir.
Q How long have you lived here in the Cherokee Nation? A All my life.
Q Are you acquainted with Bill Buffington, the applicant? A Yes, sir, reasonably, since I have been up in this country.
Q Did you know his father, William Buffington? A No, sir.
Q Did you know his mother? A Yes, sir, slightly.
Q How long did you say you have known William Buffington, the applicant? A I have known him since I came in to Vinita, about ten or twelve years.
Q You don't know anything about when he was born? A No, sir.

Fred Martin, being duly sworn by Commissioner Needles, testified as follows:

- Mr. Rutherford: State your name? A Fred Martin.
Q What is your age? A 43.
Q Where do you live? A Live on Grand River in Saline district.
Q How long have you lived there? A I have lived there nearly all my life.
Q What is your post office? A Spavinaw.
Q You are on the authenticated roll of 1880 are you? A No, sir.
Q Are you on any of the rolls? A Yes, sir, my case went through the other day on a straight card.
Q You say you have lived there on that place nearly all your life where you all live? A Yes, sir.
Q Do you know Bill Buffington, the applicant? A Yes, sir.
Q How long have you known him? A Ever since he was quite a small boy.
Q Who was his father? A Bill Buffington.
Q Did you know Bill Buffington during his live time? A Yes, sir, some parts of it.
Q Where was he living when you knew him? A When I first knew him was when he had moved from somewhere, they said up close to Mayfield, to old man Griffin Daniels.
Q Do you remember when that was? A Why not exactly the days of the year, but these two boys, and another girl that died in Vinita, was very small.
Q When he moved to Grand River? A Yes, sir.
Q To Daniel Griffin's place? A To Griffin Daniels, yes, sir.
Q What was the names of these boys? A One they called Ab and one they called Billie.
Q They were small? A Yes, sir.
Q That was when he came there? A Yes, sir, that was when he moved down on Grand River.
Q Was his wife with him at that time? A No, sir.
Q And you don't know what year that was? A No, sir, don't know the year.
Q How long did he live there? A Lets see if I can tell you, he made a crop I think, for Granddaddy Griffin as we called him, and then he taken the children to his brother's widow, these three little children, it was then Peggy Henry, after they came down here, and he then went over and stayed a while during the same year somewhere near Gus Buffington.
Q Where was that? A Over in Delaware district over near Joe Lynch who is on trial over there now; he stayed there till after the small pox and then he moved from there to Jack Davis and Jack built him a little house over just across the branch from where he is living, and there is where Uncle Bill lived and died.

William Burrington - 3.

- Q When did he die? A In 1888.
- Q Do you know when it was he carried these children to his sister in law? A No, sir, I don't.
- Q How old was William at that time? A I don't know as that they were very large, Eliza was the eldest of all, Billie was the next, and Ab was the largest.
- Q Where did they live, this sister in law, Peggy Henry? A She lived at the place that is called now the Stephen Henry place.
- Mr. Bell: Tell where it is? A It is in Saline district on Lynch's Prairie.
- Q You don't know the year that he came to Grand River?
- A No, sir.
- Q Did you know him when he lived out there first? A No, sir.
- Q You never knew him till he came down to Grand River? A I never knew him till he came to Grand River, but I knew him from that time on up until he died.
- Q Do you know where his wife was at that time? A No, sir, not of my personal knowledge, I have heard him say where she was, but then I don't know myself.
- Q Have you known these boys constantly since that time, Billy and Ab? A Yes, sir.
- Q Where have they lived? A Well, Bill has traveled around some, I don't know just where he has been, he has been living in Vinita a right smart bit; Ab has been living in Vinita part since that time.
- Q Since you knew them on Grand River as children? A Yes, sir.
- Q You state the old man died in 1888? A Yes, sir, I know he died because I helped bury him, I helped dig the grave and helped put him in the coffin.
- Q You had seen him in this country from the time he first came here off and on till he died? A Yes, sir.
- Q He never was gone out that you know anything about? A No, sir, if he went out that was before my recollection.
- Q Do you know, taking the war as a starting point, how long was it after the war that you first met him down on Grand River? A Well I don't know about that, he has been on Grand River, I can tell you near about how long he had been there before he died; between three and four years before he died, somewhere along there.
- Q And you understood he moved from Beatty's Prairie? A That is what I understood, but I don't know anything about that of my own personal knowledge, all I know is what I saw, I know that.
- Q Do you know anything about why his wife wasn't living with him? A No, sir, no more than I heard they were separated.
- Q How long had they separated, you understood, before he came to Grand River? A I don't know, the first I knowed of them being separated is when he brought them children there.
- Q That was several years before he died? A Yes, sir, between three and four years before he died.

Brube C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Sworn to and subscribed before me this the 23rd of May, 1901.

Brube C. Jones
Commissioner

Commissioner.

Comm. 3

(Case continued, May 31, 1902.)

Ben Beck, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Ben Beck.

Q What is your age? A I am about 52.

Q What is your postoffice? A Vinita.

Q Are you a citizen of the Cherokee Nation? A Yes sir.

Q By blood or Freedman? A I am both, I guess, I am mixed; yes, a Freedman.

Q Is your name on the roll of 1880? A I don't know sir, whether it is or not.

By E. M. Rutherford, Applicant's Attorney: How long have you lived in the Cherokee Nation? A Raised here.

Q What point? A In Flint District.

Q Do you know William Buffington? A Yes sir.

Q Do you know William Buffington, the applicant here? A Yes sir.

Q Do you know how his father was, this William Buffington here?

A Yes sir, Bill Buffington.

Q When did you first know William Buffington? A I used to know him when he was a boy.

Q Where? A In Flint.

Q Where was he living in Flint? A He lived on Beatty's Prairie.

Q Did you see him after the war in here? A Yes sir, I saw him.

Q Where? A At Vinita.

Q Do you know where he lived immediately after the war? A No sir.

I didn't know just after the war.

Q You didn't know just where he lived? A No, not at that time.

Q Who was his wife? A Lissie.

Q Were they living together when you knew them? A No sir.

Q Do you know when they separated? A No sir, I don't know when they separated; he was separated when I knew him.

Q You knew how many children they had? A Three, I believe here.

Q What are the names of those three? A Ab, Bill, and one Eliza; she is dead.

Q That was when you saw him after the war? A Yes sir.

Q Where was his wife living at that time? A I don't know where; I heard she was down by Gibson; I never saw her myself; he said she was there.

Q You have known these children constantly since you first met them? A Yes sir.

Q Where have they lived? A In Vinita.

Q Which ones live in Vinita? A Ab, and Bill; this girl she died in Vinita.

By E. M. Rutherford, Cherokee Attorney: You say you have known these boys ever since you first saw them? A Yes sir.

Q Where does Bill Buffington live? A In Vinita.

Q How long has he been living there? A I don't know how long.

Q How could you be knowing him all the time? A I said ever since I knew him he has been living there.

Q You don't know whether he has been living there six months or not?

A Yes, longer than that.

Q Well how long? A I have been living here going on fifteen years myself.

Q Bill has been living there fifteen years, has he? A Yes sir.

Applicant's attorney ask that the testimony of Nan Mackey taken in the application of Mary Hemitte on the 15th day of April be made a part of the record in the case now under consideration. The same being testimony D Card No. 78.

Russie Varfield, being sworn by Commissioner Needles, and examined by E. M. Rutherford, testified as follows:

Q What is your name? A Russie Varfield.

Q Varfield, he is your second husband is he? A Yes sir.

Q Who was your first husband? A Buffington.

Q What is your postoffice address. Where do you get your mail? A I don't know.

S. W. B.

Q Muldrow, or Cherokee? A Don't know.
Q You say William Buffington was your first husband? A Yes sir.
Q You and he separated? A Yes sir.
Q How many children did you have by William Buffington? A Two boys and a girl.
Q What girl? A My daughter.
Q Mary Hamilton? A Yes sir.
Q What boys William and Ab? A Yes sir.
Q And Mary and David? A Yes sir.
Q They were your children by William Buffington? A Yes sir.
Q Where were you living when they were born? A On Beatty's Prairie.
Q When did you separate from William Buffington, how long ago?
A I don't know; I forget how long it was.
Q Have you always lived here in the Cherokee Nation since you came back? A I don't know.
Q What became of Mary after you and William Buffington separated who took her? A One of her aunts took her.
Q Which one? A Olora.
Q Didn't Sam Manuel take her? A Yes sir, she took her; I forgot.
Q She took her and raised her, didn't she? A Yes sir.
L. B. Hall, Cherokee Attorney: You say these children were all born at Beatty's Prairie? A Yes sir.
Q When? A I don't know; it has been so long.
Q Was it before the war or after the war? A After the war, I think.
Q I would like to ask you, do you think you recollect that they were born? A No, I don't think I do; it has been so long.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 27th day of May, 1901.

E. J. Rothbauer
W. H. Moore
Commissioner.

File with William Buffington, Cherokee Freedman, B-375.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Ab Buffington for enrollment as a Cherokee Freedman.

Ab Buffington, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Ab Buffington.
- Q How old are you? A 38.
- Q What is your postoffice address? A Vinita.
- Q What district do you live in? A Delaware.
- Q Do you want to be enrolled as a Cherokee Freedman? A As a descendant.
- Q Is your name found on the roll of 1880? A I don't know whether it is there or not.
- Q Did you ever draw any money from the Cherokee Nation? A Yes, sir.
- Q Did you ever vote? A Yes, sir.
- Q Been a recognized citizen? A Yes, sir.
- Q Who do you want to enroll besides yourself? A Just myself.
- Q What was your father's name? A Bill Buffington.
- Q Is he living? A No, sir.
- Q Is his name on the roll of 1880? A I don't know whether it is there or not.
- Q What is your mother's name? A Lizzie.
- Q Is she living? A Yes, sir.
- By Edgar Smith, Attorney for applicant: Where do you live? A Delaware district.
- Q Do you live in Vinita? A Yes, sir.
- Q How long have you lived there? A Well, I have lived the biggest part of my life, about 20 years I guess.
- Q About twenty years in Vinita? A Yes, sir.
- Q Where were you living as far back as you can remember; what is your earliest recollection of any place? A Living in Vinita.
- Q You can remember further back than 20 years; you are 38 years old? A I just mention about living in Vinita that long.
- Q What is your earliest recollection as to where you lived? A On Grand River.
- Q What portion of the Cherokee Nation did you live in, what part of Grand River? A Near the place they call Island Ford, I believe that is the name of the place it is near.
- Q Are you on the Wallace roll? A Yes, sir.
- The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.
- The 1886 census roll of Cherokee Freedmen examined and the applicant not identified thereon.
- The Wallace roll examined and the applicant identified thereon, page 103, No. 2195, Cooweescoowee district.
- Q Did you draw any money on that Wallace payment? A Yes, sir.
- Q Have you any brothers or sisters, Ab? A Yes, sir, I have three full brothers and sisters.
- Q What are their names? A The oldest one is named Bill, and a sister Mary.
- Q Is your sister Mary's name Buffington or is she married? A She is married.
- Q What is her name now? A Her name is Mary Emmett now.
- Q Are they older or younger than you are? A They are younger than I am.
- Q You don't know yourself about who your father or mother belonged to or anything about the war times, you are too young? A No, sir, I don't remember very much about back that far.
- Q Who are your witnesses? A Crap Lynch.

ALLEN LYNCH, being duly sworn by Commissioner Needles, testified as follows:

Ab Buffington - 2.

Mr. Smith: State your name? A Allen Lynch.

Q Where do you live? A Live here in Vinita.

Q How long have you lived in Vinita? A Five years I believe.

Q Are you a Cherokee Freedman citizen? A Yes, sir.

Q On the authenticated roll? A Yes, sir.

Q Do you know Ab Buffington, the applicant in this case?

A Yes, sir.

Q How long have you known him? A Known him ever since he was born.

Q Where does he live? A He lives in Vinita now.

Q How many years has he lived in Vinita? A I don't know, I can't tell you how many long he has lived here, he was here before I came here.

Q How long have you been here? A I been here five years.

Q Where did you know Ab Buffington first? A Why I knowed Ab Buffington ever since he was Ab Buffington.

Q Where was he first Ab Buffington? A Up here close to Beatty's Prairie.

Q Well, at what point; in the Cherokee Nation? A Yes, sir.

Q Who was his father? A Bill Buffington.

Q Who was his mother? A His mother was, I can't call her name, but she used to belong to McLaughlin.

Q You don't remember her name? A I know her name if I could just think of it; she used to belong to McLaughlin.

Q Do you know who Ab's father belonged to? A Yes, sir, he used to belong to Hoolley's stepmother.

Q What was her name? A Mrs. Bell; they used to call her Sabra Buffington.

Q She was a Cherokee citizen? A Yes, sir.

Q Was the McLaughlin that you spoke of a Cherokee citizen? A Yes, sir.

Q Was Ab's father and mother married or did they live together as man and wife? A They lived together as man and wife, yes, sir.

Q When? A Well, when I first come down here they were living together as man and wife.

Q Where was that? A I come down here in 1866 and they were here and they were living together as man and wife.

Q Where was the boy Ab at that time? A Well, he had two or three children, they had that child with them, I can't tell you whether it was Ab or Bill or somebody else; they were there, they all were there, they had some children.

Q Has Ab any brothers and sisters? A I think he had two or three.

Q What are their names? A Bill, and had a girl, I can't remember what her name was.

Q Do you know whether she is single or married? A No, sir, she was single when I used to know her.

Q Do you know whether this man Buffington, Ab's father and mother, either of them went out of the Cherokee Nation or not, of your own knowledge, or do you know about that? A Well, we left old Uncle Bill and his wife here when we went away and when we come back he was there, I don't know whether he went out or not.

Q When did you go away? A I went away in 1862, I believe, and I come back here in February, 1866, and he was here when I come back, he was here when I went away and he was here when I got back.

Q Where was he living when you went away? A Living at Mrs. Buffington's or Mrs. Bell's.

Q Where was he living when you come back? A If I don't mistake he was living right at them or a mile or two this side of them.

Q Where was that? A That is OK -- I forget the place, but he was up there on what we call Beatty's Prairie.

Q Do you know how many children they had altogether? A When we come back, no, sir, I don't.

Q Do you know whether any other children were born after that or not? A After we come down, yes, sir, I think two or three, I can't tell you exactly.

Q Can you remember their names? A No, sir, I can't tell you the

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Names.

Q Do you know whether they were boys or girls or how about that?
A I think he had three boys and seems to me like he had two girls, I will not be sure, I think he had one girl and two boys, but I don't know how many he did have because I didn't visit him very much; I knew him all right.

By L. B. Bell, Cherokee attorney: Al, how far did you live from Bill Buffington in 1862 when you left here? A From old man Bill Buffington, on Beatty's Prairie?

Q You know where he lived? A I didn't live far from Buffington, that Bill Buffington, I didn't live more than about six or eight miles.

Q In 1862? A When we went out of here he lived over here on Cabin Creek and we lived over on Grand River, that wasn't his father.

Q Well, we are talking about Abe's daddy now. A Well Abe's daddy lived up at Beatty's Prairie and we lived thirty miles this side.

Q You say that Bill Buffington was up there about Beatty's Prairie when you left here? how do you know that? A When I came there from McCullough's army I came right up there and I saw Uncle Bill there, when I ran away from McCullough's army on that little prairie close to Mayeville, and when I passed ~~about thirty miles~~ I passed old Uncle Bill there, that is how I know he was there, I stayed part of the night with him.

Q Where did you run away from the army at? A I ran away from the army on, I can't tell you the prairie, I can tell you the man I was working for; they had camped on, what do they call that prairie; I was working for Capt. Kelly, I was hired to him, old Kelly's brother was a captain in the Rebel Army and I was waiting on him, and I left them there and when I came on down coming to Grand River I came on to Bill's and stayed part of the night.

Q That was in 1862? A Yes, sir, just before the Pea Ridge fight.

Q Well, where was Bill living? A He was living right then with the old lady on the old Buffington place to my best knowledge; he was right there.

Q Now I will begin again with you; where was Bill living in 1862 when you left this country, when you ran away from the country?

A Well I am telling you just where I found him; there is where we left him when I come back he was here, I tell you just how it was.

Q You ran away from here in July or August, 1862, somewhere along there? A No, I came down on Grand River and when I got down to Grand River Jim Bell took me and Crab and Spence and carried us to Fort Smith, that was just after the Pea Ridge fight.

Q Come down to where we are at; I want to know where you were at in 1862, in August? A In August, well I went to Kansas.

Q Where were you at before you started to Kansas? A I was down on Grand River.

Q When at? A Down there on what was called the Bruce Adair place.

Q How far from that salt lick, from the old Saline salt works?

A Must be five or six miles.

Q Down the river? A Down the river.

Q Where is where you started from for Kansas, is it? A I started for Kansas from here.

Q That is the time I want to get at; about then where was Bill Buffington living, the old man we are talking about? A I can tell you the last time I seen him, I seen him at the old lady's house, I can't tell you, he might have been in Texas for all I know.

Q How many children did he have there with his wife when you stopped and stayed with him when you ran away from McCullough's army?

A Well Mr. Bell, I can't really tell you, he might have had three or four, he might have had only two.

Q Come as near as you can? A I can't tell you, I knowed the folks and stopped there and stayed part of the night.

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Q That was about in 1862? A '62, it was in the winter; I know it was in the winter because I went down to Fort Smith, and I left them there and come back here, me and Orap, and in the summer why then is when the northern troops come down.

Q You state that you left McDullough's army just a little before the battle of Pea Ridge, or Elkhorn? A Yes, sir.

Q You came then directly to Beattys Prairie and stayed all night with William Buffington? A With old Bill Buffington, yes, sir.

Q Then you went from there you say here on Grand River? A On Grand River, yes, sir.

Q That is the time we are talking about; and you say at that time he had two children or more; you can't tell how many more?

A I don't remember how many he had; I wouldn't say he had over one to my certain knowledge.

Q You have begun with three and you have got down to one? A I am saying I don't know how many he did have.

Q As a matter of fact did he have a one? A Yes, sir, I know he had one or maybe had two, he might have had three, I didn't pay no attention to them.

Q And then you just suppose that he was up there when you went to Kansas; you don't have any certain knowledge that you left him there?

A When I went to Kansas I can't say who was there, no, sir.

Q When you returned and found him in '66 where did you find him?

A I found old Uncle Bill, let me see where was the first place I seen him; I seen old Uncle Bill on Beatty's Prairie, I don't know just exactly what place I saw him; I can't remember just where I first saw him when I saw him in 1866, but I think it was on the Ward, not far from one of them Ward places, this side of Mayaville; me and McGarry went up there and there is where I saw him.

Q What time in 1866 was that? A I can't tell you, it was either in October or September, I went up there to work on the old Taylor place, I can't tell you exactly, it was along that time we went up there and old Uncle Bill was up there.

Q In September or October of 1866? A Something along in those months, I can't just tell you what day of the month.

Q How many children did he have then? A I don't know, I can't tell you.

Q Were you not at his house? A Yes, sir, but I can't tell you exactly how many children he had.

Q Did he have one or two or two or three children? A To my recollection he had two or three children.

Q Well you have stated that you knew Ab from the day he was born?

A Well, I am stating about the family.

Q That would necessarily almost follow that you knew the family?

A Yes, sir, I knew the family.

Q And how many children did he have when you saw him in 1866; he only had two in 1862? A To my best recollection I think he had three children, maybe four, I don't know, I have some forgot.

Q Did you see old Bill Buffington at all in 1866, anywhere or any place? A Yes, I saw old Bill Buffington, yes sir I did, I talked with him and was with him.

Q Who was there with him at his place in 1866? A When I saw him, why the family was there, just his family and me and old man McGarry.

Q Was his first wife there? A Yes, sir, his wife was there.

Q And his children were there? A Yes, sir, she was there and he had some children there.

Q Who was his wife? A It was this McLaughlin woman, I know her well but it has slipped out of my recollection who she was, but she was there and had these children.

Q Who did she belong to? A Well, I think she belonged to Andy McLaughlin, if I don't mistake; she belonged to one of them McLaughlins I will not be certain which one she belonged to; I can't tell you who her owner was, she was the niece or sister of Dr. Will's wife.

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Q How long did Bill live by Beatty's Prairie after you knew him there in 1866? A Well, I don't know, it seems to me, if I recollect right, he might have the next year or the next year after that moved down on Grand River, then he left there and I don't know where he went to.

Q Left where? A Left from Grand River, I don't know where he went, he went up with Hill Thompson.

Q You were over there about a month or two? A I stayed up there six or eight months, I went to Missouri from there; I can't tell you just exactly, it is a long time and a man can't recollect all these things.

Q I see your recollection is bad as particular instances. A Put anything particular to me and I might tell you.

Q Didn't Bill move up to Kansas after you came down here? A Well if he did I don't know it.

Q You don't know at all that he ever went back to Kansas after '65? A Yes, sir, I know he went back to Kansas.

Q Well, that is what I asked you, if he didn't move up to Kansas?

A I don't know whether he moved up, but I know he went there.

Q When did he go? A I can't tell you just exactly when he went but he had a son called Dan and Dan was at Oswego and he wrote for the old man to come after him and the old man went after him, but just exactly the time when he went I can't tell you; while he was up there Dan died and the old man came back, and I can't tell you when he came back.

Q When did the old man settle down here on the river, if at all?

A He stopped down there.

Q Did he ever take up any residence? A I don't know whether he did or not, that is out of my recollection, I don't know whether he ever made a farm, I don't believe he ever made any farm to my knowledge, but lived with Jack Davis and Joe Thompson and Dick Martin; I don't know whether he ever made him a farm or not.

ANDERSON LYNCH, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Anderson Lynch.

Mr. Smith: Where do you live? A On Grand River.

Q How old are you? A I am about 64.

Q How long have you lived on Grand River? A Been living there all my life, raised up there.

Q Do you know this applicant in this case, Ab Buffington? A Yes, sir, I know him.

Q How long have you known him? A I have been knowing him ever since he was a little bit of a thing.

Q Where has he been all the time since you have known him? A I saw him after he left his father, I would come here and see him once in a while I was in Vinita.

Q About how many years old would you judge him to be and about how old was he when you first knew him? A I don't know, I can't tell exactly.

Q You can state whether he was a little bit of a boy or a big boy?

A He was a good size boy, running all about when I brought them down here.

Q Did you know his father? A Yes, sir.

Q Who was his father? A Bill Buffington.

Q Who was his mother? A His mother was -- I disremember her name now; I know her name well, but it has just got out of my mind.

Q Would you know it if you were to hear it called? A Yes, sir.

Q Was it Lizzie? A Yes, sir, Lizzie, that was her name.

Q Do you know whether Bill Buffington was out of the Cherokee Nation or not during the war? A He must have; when I saw him last

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known him he was at Mound City with his brother Bill.

Q Where is Mound City? A It is up in Kansas on Big Sugar they call it.

Q And when did you know him? A That was in 1866, winter of 1866 I think.

Q Do you know when Bill Buffington came back, if he ever came back, to the Cherokee Nation? A Yes, sir.

Q Well, when did he come back? A He came back just a little while before Christmas, old man Steve came down in 1866 and he came down and got me to haul a load down for him that winter, and just before Christmas we came back here.

Q What Christmas? A That was Christmas of '66 I think.

Q Who was that got you to haul a load? A That was Uncle Steve, Bill Buffington's brother.

Q Well, anybody come back with you at that time? A Well, it was just them, old Uncle Steve had two stepchildren, they were along, they were coming back with us, and old Uncle Bill's woman, and I think she had two children with her, he didn't have nothing but just his things, they had picked them up about Maysville and Steve want and got him and hauled him up to his house.

Q Then what became of him? A After he hired me to go back and I run onto them and he loaded his things in and came with him.

Q Who came with you? A Uncle Bill Buffington, and came back here on the river.

Q Where did you come back to when you came back to the Cherokee Nation, what river did you come back to? A Grand River, here across the river, I hauled them over on the Lynch place and he then moved and started out and went to Beatty's Prairie.

Q That was Bill Buffington and his woman? A Yes, sir.

Q And how many children? A There was two children, one they called Abstance, and I disremember the other one's name, I think one they called Bill.

Q Where did you leave them when you brought them back? A I left them right there by Sam Wards in a little log cabin that they were putting up this side of Maysville, I expect you know where it is.

Q Go ahead now and tell what you know; at ~~about~~ what place this side of Maysville did you leave them? A It was close to where Sam Ward had a mill on this side of Maysville.

Q Do you know where Bill Buffington died? A He died down here to Jack Davis'.

Q Where is that? A That is across by Cabin Creek.

Q When did he die? A I don't know sir just exactly.

Q Can you tell about how many years ago it has been? A It must have been maybe six or seven years, I don't know just exactly, it hasn't been so powerfully long.

Mr. Bell: You don't know anything about when Bill Buffington went to Kansas? A No, sir, I don't know when he went.

Q You hadn't seen him for a long time prior to '68 when you went off to Kansas? A No, sir, I didn't see him till '66, he was with Uncle Steve when I run onto him.

Q All you know about his whereabouts, is what you have seen after you found him at Mound City? A Yes, sir.

Q What time did you leave your place down here and go up in Kansas for Steven's family? A Just about first was beginning to fall, I can't tell you exactly what time, it wasn't quite time to gather corn, and they come back and helped me to father my corn after we got back, it was near about Christmas when we got back.

Q You say you went after Steve and Bill come along with you?

A Yes, sir.

Q Did he come with you to your place on Cabin Creek here? A He went with me over there to the Lynch's place.

Q The Lynch place across the river? A Yes, sir, and Steve

Went on the old

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went on the old place they used to live on and Uncle Bill went on up to Maysville and got me to fetch a load for him up there to Sam Wards.

Q Who was it helped you gather your corn? I thought you said he helped you father the corn? A Both helped me and I hauled a load for him up there, right in there by Sam Ward's Mill; I am not acquainted much in there.

Q Where was this corn gathered at? A It was gathered over there on the Lynch place.

Q How long was he gone to Beatty's Prairie before he came back down here? A I don't know sir just exactly, I never kept track of it, I know he was up there a good while before he came back here, and him and his wife were split up when he came back.

Q Where did you see this boy, at Mound City? A Yes, sir; one they called Abstance and one they called Bill if I am not mistaken, they was just two boys of them with them.

Q He had two boys when you seen him at Mound City? A Yes, sir, two boys.

Q Well, Ab says he is the eldest, I reckon he knows? A Yes, sir, I guess so.

Q How large was Ab when you saw him at Mound City? A He wasn't a bit over that high (indicating).

Q Not over four or five years old? A No, sir.

Commissioner: Ab Buffington applies for the enrollment of himself. His name is not found upon the authenticated roll of 1880, the census roll of 1896, or the Kerna-Clifton payroll. ~~XX~~ but he is identified upon what is known as the Wallace roll. He makes satisfactory proof as to his residence, but by reason of the fact that his name is not found upon the authenticated roll of 1880, and the further facts as set forth in the testimony, said Ab Buffington will be listed for enrollment as a Cherokee Freedman upon a doubtful card, for the further consideration of the Commission. He will be notified by mail of the conclusion of the Commission when arrived at, in his case.

Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the ~~22nd~~ 17th of July, 1901

[Signature]

Commissioner.

MASS. U.S.A. 1901

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CIVILIZED TRIBES
FILED
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ACTING CHAIRMAN

VALLEY PAPER CO. 1901

File with Cherokee Freedmen 2-273, William Burrington.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 15, 1901.

In the matter of the application of Ab Burrington for enrollment as a Cherokee Freedman.

Testimony introduced on behalf of Cherokee Nation.

Appearances:

Mellette & Smith, attorneys for applicant;
J. S. Davenport, of counsel for Cherokee Nation.

J. L. WARD, being duly sworn by Commissioner Needles, testified as follows:

Mr. Davenport: What is your name? A J. L. Ward.

Q Where do you live? A I live near Naysville, three miles west, three and a half.

Q How old are you, Mr. Ward? A 56.

Q How long have you lived in the Cherokee Nation? A I have lived there all my life except during the war.

Q At what point in the Cherokee Nation was you living when the war broke out? A Right where I am living now, within half a mile of it.

Q What is this known as, what was it known as? A It was known as the George Ward place.

Q How far is it from Beattys Prairie? A It is right on the edge of Beattys Prairie.

Q Do you know where the Bill Burrington place was before the war, or the Bell place? A Yes, sir.

Q Where they lived, on the prairie? A They were just one mile east of where I lived.

Q Did you know a slave that belonged to Mr. Burrington by the name of Bill or William Burrington? A I knew a Bill Burrington.

Q Where was he, if you know, at the breaking out of the war? A He was there at the Bell farm.

Q Do you know what became of him during the war? A No, sir, I don't.

Q When did you return to that locality in the Cherokee Nation where you had previously lived, after the close of the war? A When I returned down there, it was in November, '65.

Q Well, have you resided continuously in that locality since that time? A No I have been in the army three years.

Q I mean since '65 have you resided continuously in that locality?

A Yes, sir.

Q Have you seen this colored man, Bill Burrington, since the close of the war? A Yes, sir.

Q When and where did you see him after the war closed? A He came back there, as well as I remember, in '88 or '9.

Q Came back to what point, Mr. Ward? A Over in about a mile and a half or two miles of his former residence.

Q Do you know whether or not he raised any children after the war or had any children? A Why he had a whole family of them, but I didn't know any of them.

Q Did you ever know the names of any of them? A No, I can't say that I did.

Q Is there any of them living over there in that locality now?

A No, sir.

Q You know what became of them or where they are living? A Any they moved over near here some place I think.

Q Well you were there on Beattys Prairie after you returned in '65 during '66 and '7, were you? A Yes, sir.

Q Was this man Bill Buffington and his family there? A No, sir.
Mr. Mellette: You don't know when he came back to this country after the war? A He came back in about '68 or '9; I know he wasn't there in '68 and '7.

Q How do you know when he came back to the Cherokee Nation? A I was there.

Q Can you swear he wasn't in the Cherokee Nation before you saw him? A Oh no, but he wasn't in that locality.

Q You say '68 or '9? A Yes, sir.

Q Which was it? A Well I don't know positive.

Q Why do you say it was '68 or '9? A Because he wasn't there in '66 and '7.

Q How do you know he wasn't? A I was there.

Q Why can't you say positive when he did come there, if you can say he wasn't there in '67? A Because I can't remember.

Q How can you tell he wasn't there in '67? A Because I know he wasn't; if you were at a certain locality at a certain time, don't you know whether there is anybody else there?

A No, and no man living can swear it for 35 or 36 years. A Well there wasn't any negroes there.

Q You swear then just because there wasn't any negroes there? A No there wasn't any negroes there.

Q And how much of that country did you range over? A I can't tell you exactly, fifty miles square I guess.

Q You watched every man in fifty miles square, did you? A There was very few men in fifty miles square.

Q Did you cover it all, ride over fifty miles square? A At times.

Q At all times? A No, not all times.

Q Did you watch every man that lived in that square? A No, sir.

Q Did you see every man that was in fifty miles square in '66?

A I guess I came very near it.

Q Do you swear you did? A No.

Q Were there any colored people within fifty miles square there?

A Yes, there was within fifty miles square, there was colored people.

Q How many? A I can't tell you.

Q There was a good many, wasn't there? A No, there wasn't.

Q What were you doing ranging over fifty miles square? A Well sir, I taught school in the fall of '66 and the spring of '67 and I had business in Tahlequah and I had business up here and business in Baxter Springs.

Q Well I know, but that didn't take you all over every acre of fifty miles square? A I didn't say I went over every acre.

Q How did you know who lived in that fifty miles square? A I didn't say I knew who lived in that fifty miles square I don't believe.

Q You did a while ago, you said you knew everybody who lived in fifty miles square? A I beg leave to differ.

Q What did you say about fifty miles square? A You asked me how far I ranged over; that doesn't say I knew every man in fifty miles square.

Mr. Davenport: You lived in about a mile of the Buffington and Bell places on Beattys Prairie where this fellow had been formerly owned? A Yes, sir.

Commissioner: This testimony will be made part of the record in the case at bar and also part of the record in Cherokee Freedman case No. D-573.

Mr. Davenport: I would also like to make it a part of the record in D-48 and D-453.

Commissioner: This will be done.

Bruce S. Jones, being duly sworn, says that as stenographer to the commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce S. Jones

Sworn to and subscribed before me this 7th of November, 1903.

[Signature]

Commissioner.

NOV 18 1903
U.S. DEPT. OF JUSTICE
RECEIVED

RECEIVED NOV 18 1903

RECEIVED NOV 18 1903

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I.T., April 19, 1908.

In the matter of the application of Ab Buffington for enrollment as a Cherokee Freedman.

Applicant appears by Lewis T. Brown, representing Mallette & Smith, Vinita, I. T.

Cherokee Nation represented by James S. Davenport.

JOSEPHINE HUMISTON, being first duly sworn, testified as follows:

MR. DAVENPORT: What is your name? A Josephine Humiston.

Q Where do you live, Mrs. Humiston? A I live in Linn County, Kansas.

Q What is your postoffice? A Parlinville.

Q How old are you? A I am 67.

Q How long have you lived in Linn County, Kansas? A I came there in the spring of '57.

Q Where were you living at the close of the war? A Living in Linn County, Kansas.

Q Did you ever know a colored man by the name of William Buffington up in that country? A Yes, sir.

Q About when did you first get acquainted with him? A I can't give any exact date when I first saw him.

Q Well, where did he live after you did get acquainted with him with reference to the place you lived on? A The place he occupied at the time I have the most remembrance of him was the place that cornered with mine south and west.

Q About how long did he live there? A One season.

Q One crop season? A One crop season.

Q When did he go away with reference to the time Daniel Lynch—or Stephen Lynch, I mean, went? A He went away with Stephen Lynch, went away together.

Q What was your name at that time, Mrs. Humiston? A Josephine Emerson.

Q What was your husband's name? A William B. Emerson.

Q Do you know whether or not your husband had any dealings with William Buffington? A He hired him at times.

Q Did William Buffington have a family at that time? A He had a wife; I have no remembrance of any children.

Q You have no recollection as to whether he had any children? A No, sir.

Q Do you remember what his wife's name was? A No, I don't even remember his wife's name; if I ever heard it I don't remember it.

Q Do you know whether or not your husband kept any memorandum of the transactions between him and William Buffington in the way of a book account? A Yes, sir, he had a book account.

Q Where is that book, if you know? A I have it in my possession.

Q In whose possession has it been—or is your husband living?

A He is dead.

Q In whose possession has it been since his death? A It has been in my possession all this time.

Q Would you recognize your deceased husband's handwriting if you should see it? A Yes, sir.

Q I wish you would examine page 18, at the top of the page in the book that I now offer you, and see whether or not the account there is in the handwriting of your deceased husband, William B. Emerson? A Yes, sir, that's in his handwriting; I would recognize that anywhere.

Q The representatives of the Cherokee Nation offer that portion of page 18 which relates to an account between William Buffington, which has been shown by the witness to be in the handwriting of her

deceased husband, William B. Emerson.

*18.

August A. D. 1867

Dr

William Buffington.

A.D. 1867

Cr.

August 24, By 2/26 of a month

18

1 54

" 21, By 5/26 of month,

19

4 61

Sept. 2nd, By 1/26 of a month

19

37

" 18 & 19,

"

" 21st, To cash

21

3 92

MR. BROWN: What was William Buffington's wife's name?

A I don't know, I have no remembrance of it; I never heard it— of course I did, but I don't remember; I had no acquaintance with her.

Q Did she have any children? A I have no remembrance.

Q How far did she live from your house? A For one season they lived perhaps a half a mile.

Q What year was that? A That was the season of '67.

Q Well now, the season of '66 where did they live? A I don't know; I have no remembrance of where they lived.

Q You don't know where William Buffington was, either, do you, in the year '66? A No, I don't; I don't know where he was; he occasionally came to visit his brother and that's all I know.

Q What was his brother's name? A Stephen Lynch.

Q All you know is that during the year '67 a man by the name of William Buffington worked for your husband? A Yes, sir, and occupied this place that I speak of.

Q Didn't work for him in the year '66? A I think not; I have no remembrance that he did.

Q Well now, in the year '67 you say they lived in half a mile of you? A Yes, sir.

Q And you don't remember whether they had any children or not?

A I have no remembrance of any children; perhaps they had, but I don't remember it; if they had any I don't remember it.

Q The William Buffington that you are talking about is a brother to Stephen Lynch? A Stephen Lynch, they were brothers.

Q Brothers? A Yes, sir.

Q And that's the one you are testifying about? A Yes, sir.

MR. DAYENPORT: All you know about their relationship is what they said themselves, is it not? A That is all I know.

MR. BROWN: Where is that book that your husband kept for the year '66? A He kept no book like this; that is, he never kept it only mixed with other things you know; he was surveyor and he would itemize here and there, so that I couldn't pick out anything for '66 to be positive about it.

Q Keep one in '66? A This one goes on to '68.

Q This is the only book of the kind that he ever kept is it? A That is the only book that I have except his diaries; he has diaries and his surveying books, with kind of mixtures in them.

COMMISSION: This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. D-575 and in the case at bar, No. D-574.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 24th day of April, 1902.

Notary Public.

A. J. M. 2

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Mary Hemitte et al., as Cherokee Freedmen, consolidating the
applications of--

Mary Hemitte,
Ab Buffington,
William Buffington,

Cherokee Freedman D 79,
Cherokee Freedman D 374,
Cherokee Freedman D 375.

--1--

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Mary Hemitte for herself; by Ab Buffington for himself; and by William Buffington for himself.

The evidence herein shows that the applicants were born since the commencement of the rebellion, that they are the children of William and Lizzie Buffington, and possess no rights to enrollment other than as descendants of their said parents; that the said William and Lizzie Buffington were the slaves of Cherokee citizens at the commencement of the rebellion; that they were taken from the Cherokee Nation during said rebellion, and that neither they nor any of the applicants herein returned thereto within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, and, except that the names of Ab and William Buffington appear upon the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that

-2-

the applications for the enrollment of Mary Kemitte, Ab Buffington, and William Buffington as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 493), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tamie Bixby.

Chairman

(SIGNED) T. B. Needles.

Commissioner

(SIGNED) C. R. Breckinridge.

Commissioner

Dated at Muskogee, Indian Territory,
this FEB 24 1905

AFFIDAVIT:

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

ss

In the matter of the application of William

for enrollment as a Cherokee Freedman.

Buffington

No. F. D. 357

Henry Pack, of lawful age, being duly sworn on
oath states that on the 11th day of Sept, A. D., 1901, he registered

to Ed L. Gentry whose postoffice is Demison Tex

~~Indian Territory~~, a notice, a true copy of which is attached to this affidavit, and he hereto
attaches the receipt of the Postmaster at St Gibson Indian Territory;

and that on the 16 day of Sept, 1901, he received the return

card which is hereto attached, signed by the said E D Gentry, showing

that he had received said notice.

Subscribed and sworn to before me on this the 14 day of Sept, A. D., 1901,

Seal

Henry Pack

[Signature]
Notary Public.

NOTICE!

IN THE MATTER OF The application of Ed D. Gentry
for enrollment as a Cherokee Freedman:

Case No. F. D. 287

To Ed D. Gentry, Dennison, Texas

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Fort Gibson, I. T. Indian Territory, on the following dates, to-wit: Sept. 17th at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this

SEP 17 1901

L B Bell

Attorneys for the Cherokee Nation.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
notice on.....

by delivering a true copy thereof on the
..... day of A. D. 1901.

Given under my hand this.....
day A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
13 day of Sept 1901.

J. M. Hutterford
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of A. D. 1901

Subscribed and sworn to before me
this..... day of A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 16 1901

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of William Buffington
for enrollment as a Cherokee Freedman:

Case No. F. D. 357

To William Buffington or S. M. Ruthford

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct. 14th at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 10 1901 day of _____, 1901.

L B Bell

Attorneys for the Cherokee Nation.

Muskogee, I. T., August 20, 1904.

Received of the Commission to the Five Civilized Tribes one copy
of the testimony of Cherokee Freedmen D 375, William Buffington.

R. L. Moulton
Attorney for Applicant.

FD375

10-10-10

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. William Buffington,

Vinita, I. T.

Cherokee, F-D-375.

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

7B. — J. D. 373-

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 21 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

May 26 1901

Post Office

Vinita, I.T.

District

Delaware

1. Name

William Buffington

Age

34

Owner's name

Citizenship

Year

Wallace

Page

99

No.

2129

District

Saline

Parents:

Father

Wm Buffington -

Citizenship

Mother

Lizzie

" "

Citizenship

2. Name of wife

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Doubtful

Citizenship

Mother

Citizenship

Names of Children:

3.

Year

Page

No.

Dist.

4.

Year

Page

No.

Dist.

5.

Year

Page

No.

Dist.

6.

Year

Page

No.

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7.

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Dist.

10.

Year

Page

No.

Dist.

11.

Year

Page

No.

Dist.

12.

Year

Page

No.

Dist.

Application made by

No. 1

Stenographer

B. E. Jones

On Wallace roll as Wm Buffington

V. Ref. D. 374

S. M. Rutherford, atty for applicant.

COPY.

Cherokee Freedmen
D-79 et al.

Muskogee, Indian Territory, February 24, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 24, 1906, rejecting the applications for the enrollment of Mary Hemette, Ab and William Buffington, as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. 1-90.

(SIGNED).

Tams Bixby.
Chairman.

COPY.

Cherokee Freedmen
D-73 et al.

Muskogee, Indian Territory, February 24, 1906.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the applications for the enrollment of Mary Hemitts, Ab and William Buffington, as Cherokee freedmen, including the Commission's decision, dated February 24, 1906, rejecting said applications.

Respectfully,

(SIGNED).

Tams Bixby *Chairman*
Commissioner in Charge.

Encl. 1-2.

Through the
Commissioner of Indian Affairs.

COPY.

Cherokee Freedman
D-373.

Muskogee, Indian Territory, February 24, 1905.

William Buffington,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, rejecting, among others, the application for your enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, F. L. Moulton, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED) *Tams Dixby.*

Chairman.

Encl. L-46.

Register.

COPY

Cherokee Freedman
B-178.

Muskogee, Indian Territory, February 24, 1905.

F. L. Hamilton,

Attorney for William Buffington,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, rejecting, among others, the application for the enrollment of William Buffington as a Cherokee freedman. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED) *Tams Bixby.*

Chairman.

Encl. L-49.

Register.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND:
14932-1905.

March 9, 1905.

The Honorable,
The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated February 24, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Mary Hemitte for herself; by Ah Buffington for himself, and by William Buffington for himself.

February 24, 1905, the Commission decided adversely to all the applicants.

The record shows that the applicants were born since 1865; are the children of William and Lizzie Buffington and possess no rights to enrollment other than as descendants of their said parents; that the said William and Lizzie Buffington were the slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during said war, and that neither they nor any of the applicants returned to said Nation on or before February 11, 1867.

In view of the record the approval of the Commission's decision adverse to all the applicants is recommended.

Very Respectfully,
G. F. Larrabee,
Acting Commissioner.

MM (W)

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J. J.

LLB

D.C. 20732
I.T.D. 2378-1905.

May 22, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 24, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the applications for the enrollment of Mary Hemitte, Ab Buffington, and William Buffington as Cherokee freedmen, including its decision of the same date rejecting said applications.

On September 7, 1905, the attorneys for the applicants in this case filed a motion for review of the decision of the Commission. There appears to be no sufficient reason for the granting of said motion, and it is hereby denied.

Reporting relative to this case March 9, 1905, the acting Commissioner of Indian Affairs recommended that the Commission's decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and the decision of the Commission dated February 24, 1905, is hereby affirmed.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 inclosure.

Cherokee Freedmen

D-375.

Muskogee, Indian Territory, June 5, 1906.

F. L. Moulton,
Attorney for William Buffington,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 24, 1905, rejecting, among others, the application of William Buffington for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on May 22, 1906.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. S-20
LS

Commissioner.

Cherokee Freedmen

D-79, et al.,

Washoe, Indian Territory, June 5, 1906.

Blue & Bulger,

Attorneys for Mary Hemitt, et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 24, 1906, rejecting the applications for the enrollment of Mary Hemitt, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior on May 22, 1906.

The motion filed by you September 7, 1905, for review in this case, is also denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. S-21

LS

Commissioner.

Cherokee Freedmen

D-79, et al.

Muskogee, Indian Territory, June 8, 1906.

**Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.**

Gentlemen:

**You are hereby advised that the decision of the
Commission to the Five Civilized Tribes, dated February 24,
1906, rejecting the applications of Mary Hemitte, et al., for
enrollment as Cherokee freedmen, was affirmed by the Secretary
of the Interior on May 22, 1906.**

**For your information, there is inclosed herewith a
copy of Departmental decision referred to.**

Respectfully,

**Incl. 3-22
LS**

Commissioner.

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedman
D-375.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.



Muskogee, Indian Territory, June 5, 1906.

William Buffington,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 24, 1906, rejecting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on May 22, 1906.

Respectfully,



Commissioner.

LS

Muskogee, Indian Territory, October 25, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

May 22, 1906 (I.T.D. 2378-1905), the Department affirmed the decision of the Commission to the Five Civilized Tribes dated February 24, 1905, rejecting the applications for the enrollment of Mary Hemitte, Ab Buffington and William Buffington as Cherokee freedmen. July 19, 1906, there was filed with this office the following motion received from Starr & Patten, attorneys for applicants in this case:

"Come now the applicants and move the Department to grant them a rehearing in this case in order that they may prove that the ancestors through whom they claim, William and Lissie Buffington, returned to the Cherokee Nation after the close of the Civil War and established their residence therein prior to February 11, 1867. We respectfully ask for twenty days time within which to file affidavits in support of this Motion."

On October 16, 1906, this office received from Starr & Patten the following letter addressed to the Commissioner to the Five Civilized Tribes dated October 13, 1906:

"In View of the Departmental decision in the Cherokee Freedmen cases of Jennie Martin et al we request that we

be allowed fifteen days additional time in the Cherokee Freedmen cases of Mary Hemette, Ab Duffington et al in which to prepare a proper amended motion for reconsideration in that case."

The motion and letter referred to are inclosed herewith for the Department's action on their request to be allowed time within which to file a proper motion for a reconsideration of the Department's decision in this case.

Respectfully,

Commissioner.

Incl. 3-6
LS

Through the

Commissioner of Indian Affairs.

(C O P Y)

D.S.108908-1906.

J.P.Jr.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LID

I.T.D.22256-1906.

December 12, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On November 6, 1906 (Land 94874), the Indian Office transmitted your report dated October 25, 1906, in the matter of a motion for rehearing and request for time in which to file affidavits in the matter of the application of Mary Hamitts et al. for enrollment as Cherokee freedmen.

A motion for rehearing, unsupported by affidavits, was filed with you July 19, 1906.

In said motion attorneys for applicants request twenty days within which to file affidavits in support of said motion.

On October 12, 1906, the attorneys for the applicants ^{then} requested fifteen days additional in which to file amended motion in this case, in view of departmental decision in the Jennie Martin case.

It is apparent that a sufficient and reasonable time has elapsed since the filing of the motion for the attorneys for the applicants to have filed the necessary affidavits in support of their motion. No amended motion appears to have been filed since

October 13, 1906. The motion for rehearing is denied.

The papers have been sent to the Indian Office for its files.

Respectfully,

Jesse E. Wilson
Assistant Secretary.

Through the Commissioner
of Indian Affairs.

7 ins. to Ind. Of.

Muskogee, Indian Territory, December 21, 1906

W. V. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed a copy of Department's decision of December 12, 1906, denying the motion filed by attorneys for the applicants, for a rehearing in the Cherokee Freedmen case of Mary Hemitte et al.

Respectfully,

Encl. B-3

Acting Commissioner

Muskogee, Indian Territory, December 21, 1906

Starr & Patton,

Attorneys for Mary Hemitte, et al.

Vinita, Indian Territory.

Gentlemen:

There is enclosed a copy of Department's decision of December 12, 1906, denying your motion for a rehearing of the Cherokee freedmen enrollment case of Mary Hemitte et al. You have been verbally informed of the status of the case.

Respectfully,

L M B

Acting Commissioner

Encl. B-2

COPY.

Land
108903-1906.
112787-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of December 12, 1906 (I.T.D. 22268-1906), denying a motion for a rehearing in the matter of the application of Mary Hemitte, et al., for enrollment as Cherokee Freedmen, I have the honor to transmit herewith a communication from the Acting Commissioner to the Five Civilized Tribes, dated December 21, 1906, enclosing an amended motion for a rehearing, supported by affidavits, filed in the Office of the Commissioner on December 19, 1906.

The amended motion for a rehearing is based upon the ground of newly discovered evidence, and is supported by affidavits of Ab Buffington, one of the applicants, tending to show that diligent search was made prior to original hearing for the evidence now sought to be introduced, and that he was unable to discover it in time to be used at that hearing. The affidavits in support of the motion are made by citizens by blood of the Cherokee Nation, with one exception, and he is a white man and a citizen of the State of Arkansas. All the affidavits tend to show that William Buffington, the father of the applicant in this case, was a slave of the Buffington family, Cherokee citizens, and that he did not

leave the Cherokee Nation during the Civil War. All of these affidavits have been made by parties whose age is sufficient for them to testify to the facts set out from their own personal knowledge. The former decision in this case was based on the alleged fact that William and Lizzie Buffington, the parents of the applicants, were taken from the Cherokee Nation during the Civil War and that neither of them returned to the Cherokee Nation within the time specified by the treaty of 1866.

The Office is of the opinion that the showing made in this case is sufficient to justify re-opening for the purpose of introducing the new evidence set out, and therefore recommends that the motion be granted and the case re-opened and remanded to the Commissioner to the Five Civilized Tribes for the purpose of taking additional evidence.

The record in the case is enclosed herewith.

Very respectfully,

SIGNED C. F. Laryabee,

Acting Commissioner.

KVE-W

--Copy--

JNR

DEPARTMENT OF THE INTERIOR,

S.P.

DIRECT.

WASHINGTON.

I.T.D. 1880-1907.
D.C. 8766-1907.

February 12, 1907

IRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On January 26, 1907 (Land 112787-06), the Indian Office transmitted your report dated December 21, 1906, and a motion for review in the matter of the application for the enrollment of Mary Hemitte, et al., as Cherokee freedmen. You transmitted said motion for such action as the Department may deem proper.

The Indian Office is of the opinion that the showing made in this case is sufficient to justify reopening for the purpose of introducing new evidence and therefore recommends that the motion be granted and the case reopened and remanded to the Commissioner to the Five Civilized Tribes for the purpose of taking additional evidence. A copy of its letter is inclosed.

In view of section 2 of the act of April 26, 1906 (34 stat., 137), even if the motion presents a prima facie case for further hearing, the Department would not

be warranted in ordering the same.

The papers in this case, together with the motion filed in the matter of the application of one Burns Daffington, for enrollment as a Cherokee freedman, are inclosed herewith.

Respectfully,

SIGNED Theo Ryan,

First Assistant Secretary.

1 inclosure.
Carbon copy and
10 inclosures to Ind. Of.

Cherokee F. D.
72-374-375

Muskogee, Indian Territory, March 7, 1907.

Starr & Patten,

Vinita, Indian Territory.

Dear sirs:

You are hereby advised that the motion for rehearing of the Cherokee freedman case of Mary Hmitte, et al., filed by you July 19, 1906, was denied by the Secretary of the Interior, February 12, 1907.

For your information, there is enclosed herewith a copy of the Department's decision.

Respectfully,

Enc. M-72

MH

Commissioner.

Cherokee F. B.
79-374-378

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear sir:

You are hereby advised that the motion for a rehearing of the Cherokee freedman case of Mary Hamble, et al., filed July 19, 1906, was denied by the Secretary of the Interior, February 18, 1907.

For your information, there is enclosed herewith a copy of the Department's decision.

Respectfully,

Enc. X-73

Commissioner.

ME

Cherokee F. D.
99-374-375

Muskogee, Indian Territory, March 7, 1907.

William Buffington,
Vinita, Indian Territory.

Dear sir:

You are hereby advised that the motion for a rehearing of your Cherokee freedman case, filed by your attorneys, Starr & Fatten, July 19, 1906, was denied by the Secretary of the Interior February 19, 1907.

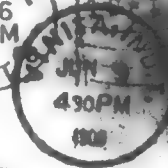
Respectfully,

Commissioner.

Department of the Interior.

Commissioner to the Five Civilized Tribes,

MUSKOGEE, IND. TER.



Unclaimed.

William Buffington,

~~Cherokee~~, Indian Territory.

Cherokee

575

Cher. Fr. R-877

Trans. from Cher. Fr. D-376

Cher. Fr. R-877

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Joe Lynch for the enrollment of himself, wife and five children as Cherokee Freedmen; being sworn and examined by Commissioner Breckinridge, he testified as follows:

- Q Give me your name? A Joe Lynch.
- Q How old are you? A I guess about 60 years old.
- Q What is your post-office? A Vinita.
- Q In what district do you live? A Delaware.
- Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
- Q Do you want to enroll anybody besides yourself? A Yes sir, wife.
- Q Any children? A Yes sir.
- Q How many? A I have got the names and age. (Produces paper)
- Q You have six children under 21 years of age have you? A Yes sir.
- Q The oldest one of these six is Viney? A Yes sir.
- Q Are any of this six that we are talking about married? A No sir.
- Q How long have you lived in the Cherokee Nation? A All my life, bred and born here.
- Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
- Q Give me the name of your father? A I don't know him, I never did see him.
- Q Give me the name of your mother? A I don't know her but she was named Viney, but she is dead.
- Q Been dead many years? A Yes sir.
- Q To whom did you belong before the war? A Joe Lynch.
- Q He was a Cherokee citizen? A Yes sir.
- Q You were his slave at the beginning of the war? A Yes sir.
- Q Give me the name of your wife? A Sophia.
- Q How old is your wife? A I guess she is about 45 years old.
- Q When were you and she married? A I couldn't say when we did marry, hardly.
- Q Well, long time ago. A Yes sir.
- Q Before any of these children were born? A Yes sir.
- Q She must be more than 45? A She must be more than that.
- Q Is she the mother of your oldest child? A Yes sir.
- Q That child is 32? A She must be older than that then I guess.
- Q Must be about 50 isn't she? A Yes.
- Q You know the name of her father? A No sir.
- Q Did you know the name of her mother? A Yes sir.
- Q What is it? A Her mother was named Chaney Ross, she is dead.
- Q Has she been dead very many years? A Yes sir.
- Q More than 20 years? A She died time the war was going on, I think.
- Q To whom did your wife belong? A Belonged to Susan Ross.
- Q She was a Cherokee citizen? A Yes sir.
- Q And your wife was a slave in the Cherokee Nation when the war started? A Yes sir.
- Q Now these six children for whom you apply, the oldest one is named Viney? A Yes sir.
- Q That child is 19 years old, isn't she? A Yes sir.
- Q Then Eliza is that the next one? A Yes sir.
- Q She is 18 years old, isn't she? A Yes sir.
- Q Cynthia Jane, that's the next one isn't it? A Yes sir.
- Q She is 16 years old? A Yes sir.
- Q Then comes Randolph, is that it? A Yes sir.
- Q Randolph is 15, is that right? A Yes sir.
- Q Then comes Ruth? A Yes sir.
- Q She is 13 isn't she? A Yes sir.
- Q Then comes Jackson, he is 11 isn't he? A Yes sir.
- Q And that's your last one? A Yes sir.
- Q Are these children all living now? A Yes sir.
- Q Are you on the 1880 roll? A No sir.
- Q None of your family on the roll of 1880? A No sir.

Joe Lynch et al 2

1890 authenticated roll of citizens of the Cherokee nation examined and applicants not found;

1896 census roll of citizens of the Cherokee nation examined and applicants not found.

Q None of your family are on the 1896 roll? A No sir.

Q Did you draw Strip money for yourself and family at the big payment? A No sir, I drew at the first payment.

Q Then none of you are on the Kerns-Clifton roll? A No sir.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicants not found.

Wallace roll of citizens of the Cherokee Nation examined and applicants identified as follows;

page 123 #2584 Joseph Lynch, Delaware District;

page 123 #2585 Sophia Lynch, Delaware Dist;

page 123 #2595 Vina Lynch, Delaware Dist.

Com'r to roll clerk: Vina is the last one you have got there?

A Yes sir.

Q Why are you not on the roll of 1890? A Well sir, I couldn't tell you how come I wasn't on.

Q Neither you or your wife, did you apply to have yourself put on that roll? A Yes sir.

Q And they wouldn't put you on, either one of you? A No sir.

Q Did they tell you why? A No sir.

Q Well then, none of you are on the roll of 1896? A No sir, I guess not.

Q Do you know the reason of that? A No sir.

Q Why did they refuse to put you on the Kerns-Clifton roll, all of you? A I couldn't tell you that, only when I asked them they said it was just through an oversight.

Q Where did you go during the war? A I went to Kansas.

Q Did your wife go with you? A No sir.

Q Did she ever go to Kansas with you? A Yes sir, she went after I did I think, or a little before; she was a little bit of a girl.

Q I just want to know whether she went to Kansas with you?

A No sir.

Q Where did you marry her? A I in Kansas.

Q You have got a child named Hester? A Yes sir.

Q Where was that child born? A They was all born and raised here.

Q I asked you about Hester, was Hester born in the Cherokee Nation?

A Hester wasn't, Hester was my baby.

Q Well, where was Hester born? A I believe she was--

Q Born in Kansas? A Yes sir.

Q Hester is 32 years old now? Is she? A I guess so, I don't know the age myself.

Q That's the age you have got on this memorandum? A Yes, I got a fellow to put the age down; just had to make a guess at it.

Q Where was Nancy born? A Down here in the Cherokee Nation. Out here on the Delaware, right where I am living at.

Q All these other children where were they born? A All of them was born right there.

Q In the Cherokee Nation? A Yes sir.

Q Your wife didn't go to Kansas when you went there? A No sir.

Q You were not married to her when you went to Kansas? A No sir.

Q When did she go to Kansas, when did you see her up there?

A I saw her up there along in '63.

Q Where did you see her? A I saw her there about Allen County, up there.

Q How long did you know her before you and she got married?

A I guess I must have known her about 6 or 7 years I expect.

Q Did you know her before she went to Kansas? A I knowed her people, they lived right down below where--

Q I am asking you if you knew her? A Yes, I knew her; she was just a little bit of a girl then.

Jon Lynch et al 3

Q You knew her before she went to Kansas? A Yes sir.

Q How long had she been in Kansas before you married her, how long was it after she got there before you married her? A I guess she had been there, I expect about four years.

Q She had been there about four years and when you and she married there? A Yes sir.

Q How old was your child, Hester, when you and your wife came back to the Cherokee Nation? A Oh she was just a young thing, just a little bit of a baby.

Q Only a few months old? A Yes sir.

Q How long after you were married your wife before Hester was born? A It wasn't long.

Q More than a year? A No sir, I guess it must have been about nine months before she was born, I guess.

Q So you and your wife came back to the Cherokee Nation then about a year after you were married? A Yes sir.

Q Because Hester was born and was a baby some months old? A Yes sir.

It now being the noon hour the Commission adjourns until 1 o'clock pm.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this May 22, 1901.

W. H. McKinstry

Commissioner.

Joe Lynch 4.

It now being the hour of one o'clock P. M. May 31st 1901, and the Commission having been called to order, the application for the enrollment of Joe Lynch et al is continued as follows:

W. W. Hastings for the Cherokee Nation.

A. S. McRea, attorney for the applicants.

G. R. Breckinridge, Commissioner presiding.

Chas. von Weise, stenographer.

JOE LYNCH, the applicant herein, re-called and examined as follows by Commissioner G. R. Breckinridge:

Q I understand that you desire to make a correction in your testimony given in this morning? A. Yes sir.

Q Then you testified that your child Hester was born in Kansas?

A Yes sir, I made a mistake there.

Q You testified, as I recollect it, that the child Hester was born in Kansas and was a few months old when you came from Kansas after the war and came into the Cherokee Nation? A. Yes sir, but she was born in the Cherokee Nation, all of them was born here, I just made a mistake this morning.

Q Did you bring your wife back from Kansas? A. Yes sir.

Q When you first came back from Kansas, did you bring your wife with you? A. Yes sir.

Q Do you mean to say that you don't remember if she brought a suckling babe with her? A. Well when I first came I first came by myself on horse-back and didn't bring her with me.

By Com'r Breckinridge,-

I want to warn you that you have made some very positive statements in regard to your coming here after the war and that when you testified this morning you said that you were positive that when you first came back to the Cherokee Nation from Kansas after the war that you brought your wife with you and that she had a baby in her arms at the time that was born in Kansas just a few months before you started, and now you come and desire to change all that and I simply desire to warn you that you are under oath and that you are to consider well what you intend to swear to for if you do not swear the truth you are liable to get your self into trouble, very serious trouble in fact.

Q You say now that when you came here the first time from Kansas directly after the war, that you came by yourself on horseback and that your wife was not with you then? A. No sir she was not.

Q And you also desire to correct your statement of this morning wherein you stated that when you and your wife came down here from Kansas, she has a baby in her arms? A. No sir she did not, I made a mistake in that, the baby was born since then, she was born in the Cherokee Nation.

Q You say now you first came by yourself? A. Yes sir on horse back to look out a location.

Q When did you come here by yourself, and where did you come to? A. On Grandriver pretty close to where I am living now, and located me a place.

Q When was that? A. November of '88.

Q Did you come down there then to prepare a place for yourself and

family? A. Yes sir, for me and my wife.

Q What work did you do there that time? A. Located me a claim and laid the foundation for me a house.

Q What else did you do? A. Never did nothing else then.

Q How long did you stay there before you went back to Kansas? A. Not very long.

Q Did you stay there until Spring? A. No sir, maybe a week or two.

Q And then what did you do? A. Then I goes back and gets my woman and comes down and builds my house.

Q What time was it you say you first come there? A. It was in November.

Q How did you bring your wife when you come with her? A. In a wagon.

Q Just you and your wife? A. Yes sir.

Q Nobody else? A. No sir.

Q Did you go right back to Kansas and get your wife and bring her right straight back here? A. Yes sir.

Q Your daughter Vina is married is she? A. Yes sir.

Q So you made a mistake there also when you said this morning that the children you applied for were all under age and living with you at this time? A. Yes sir I made a mistake there, Vina is married, she has not been married very long and I had forgotten that she was.

By Com'r Breekinridge:

So the application for her will not be continued, as she will have to apply for herself or be applied for by her husband.

By A. S. McRea, attorney for the applicant:

Q Mr. Lynch, You say that you were born in the Cherokee Nation? A. Yes sir.

Q Did you go out of the Cherokee Nation during the war? A. Yes sir.

Q Where to? A. Kansas.

Q When did you return to the Cherokee Nation? A. In '66 in November.

Q Where did you first come to the Cherokee Nation when you returned the first time from Kansas? A. I located right where I am living now, on the river in Delaware district in the Territory.

Q In the Cherokee Nation? A. Yes sir.

Q Who were your owners before the war? A. Joe Lynch.

Q You say that you laid the foundation of your house preparatory to the moving of your family, your wife, from Kansas, when you came here that first time by yourself on horse-back and then went back and got your family? A. Yes sir went back for my woman.

Q How long had it been before you returned to the Cherokee Nation after you got back to Kansas that time? A. I cant tell just exactly—I dont know just how long—it has been so long that I has done forget just the exact time.

Q Was it in December of the same year or in the January of the next year, in 1867—was it in December of '66 or in January of '67, in other words, how long did you stay in Kansas before you came back to the Cherokee Nation after you had been here and located your claim and laid the foundation of your house preparatory to moving your family here, and then went back up there? A. I dont think I was in there more than two months before I returned here with my wife.

Q Have you lived in the Cherokee Nation continuously ever since that time that you came back here with your wife? A. Yes sir.
Q Did you and your wife belong to the same owners before the war? A. No sir, my wife belonged to Susan Ross.
Q Were you and she married before the war? A. No sir.
Q When were you and she married? A. After the war.
Q After the war closed? A. Yes sir after the war closed.
Q Is your name on any of the authenticated rolls of the Cherokee Nation? A. No sir, not been able to find it on that, but it is on the Wallace roll.
Q Can you tell why it is not on the roll of 1880? A. No sir I don't know.
Q Did you make application for enrollment then? A. Yes sir I applied as a Cherokee Freedman when the census takers come round to the houses then.
Q Did you get on the roll then? A. I can't tell if they put me on then or not, if they did they scratched me off again.
Q Was you rejected that you know of? A. No sir.
Q You say you have lived continuously in the Cherokee Nation ever since November or December of 1866 up until now? A. Yes sir I have lived here ever since then till now.

By W. W. Hastings, Cherokee Representative:

Q You were in here before dinner were you not? A. Yes sir.
Q And you testified then that you brought your family with you when you came back from Kansas—your wife and one child? A. No sir I did not bring any child, I made a mistake then; I don't know what I did say then.
Q You have found out since going to dinner and talking with your lawyer, that the age of your oldest child would not enough to have her born then, in other words, that she could not be the age you give in for her, and be a month or two old at the time you say you come back from Kansas—in '66? A. No sir I haven't talked it none, I just made a mistake in giving in the ages, I remember now that that child was not borned then, she was borned after we got here.
Q Wasn't that oldest child born in Kansas before your come back to the Cherokee Nation? A. No sir, it wasn't.
Q You testified that it was didn't you before the Korne-Clifton Commission some five years ago? A. No sir not of it being born in Kansas.
Q Didn't you swear then that you brought that child back with you when you and your wife come to the Cherokee Nation from Kansas right after the war? A. No sir I don't know what I testified there.
Q Didn't you testify before the Korne-Clifton Commission that you had this one child when you left Kansas after the war to come to the Cherokee Nation and that you brought it with you? A. No sir I never told them fellows that.
Q You never swor that? A. No sir.
Q Where did you live before the war? A. Well sir, I lived in Saline district with Len Ray Lynch's father.
Q You have seen Len Lynch around here, the one that lives on Grand river, haven't you? A. Yes sir, that is my young master.

Q He was living there when you come back wasn't he? A. No sir, I was in Flint.
Q Didn't he live in Flint? A. I don't know where he lived then.
Q Was he living in Saline? A. I was not in Saline.
Q Didn't you come back to the old Joe Lynch place? A. No sir I come back and located on this side of the river from the old place.
Q Didn't you swear before the Kerna-Clifton Commission that you come back to the old Lynch place? A. No sir I never.
Q You deny going back to the old place then? A. I told you that I never went there.
Q Who were your neighbors there? A. Daniel Landrum.
Q Who else? A. Davis.
Q What Davis? A. I don't know nothing but just Davis, he was a full blood Indian.
Q Where did George Clark live? A. Well George Clark lived away up there on Grand River.
Q How far from you? A. Well I don't know exactly, I can't tell how many miles it was.
Q He wasn't your near neighbor then? A. No sir.
Q Didn't you testify before that he was? A. No sir.
Q Do you know Watt West? A. Yes sir.
Q How far did he live from you then? A. I never seed him then.
Q How long after that before you saw him? A. I don't know exactly.
Q How far does he live from you now? A. 15 or 16 miles as near as I can tell.
Q Where did you make your first crop after you get back from Kansas? A. The first crop I made was on a little bit of land I had rented from a full blood Indian.
Q What was his name? A. Joe Dirsteater.
Q Was that in Saline or Delaware? A. That was in Saline.
Q How far from where you now live? A. 4 or 5 miles, I don't know exactly.
Q Do you live in Delaware district now? A. Yes sir.
Q How long did you stay in Saline, before you moved to Delaware district? A. I never lived there at all, I just rented a piece of ground there and went over on horse back and worked it.
Q So you have lived practically in the same place that you now live ever since your return from Kansas? A. Yes sir.

ALLEN LYNCH, called and sworn by Commissioner Breckinridge, testified as a witness on the part of the applicant:
Examined by Commissioner Breckinridge:

Q What is your name? A. Allen Lynch.
Q How old are you? A. 31 about.
Q What is your post office? A. Vinita.
Q How long have you lived in the Cherokee Nation? A. Might say all my life.
Q Do you know the applicant there, Joe Lynch? A. Yes sir.
Q How long have you known him? A. We were born and raised on the same place.
Q You have known him practically all your lifethen? A. Yes sir.
Q Did you know him during the war? A. Yes sir.
Q Where did you see him during the war? A. We were soldiers together and were both in the same regiment.
Q When were you discharged after the war? A. In '65.

Joe Lynch et al 9.

Q Where were you discharged? A. At Leavenworth.
Q When did you see him after that? A. We came to Neosho Falls together in '65 and I left him there in that winter, reckon about a Christmas and came back here to the Nation.
Q Are Neosho Falls in Missouri? A. No sir in Kansas.
Q Where did you locate here in the Nation on coming from Neosho Falls? A. On the east side of Grand river.
Q How long did you stay at that place? A. Until some time in March.
Q Of what year? A. '66.
Q On the east side of Grand river? A Yes sir.
Q Then where did you go? A. Moved right down here to the mouth of this creek here.
Q Cabin Creek? A. No sir, where Bull creek runs into Cabin.
Q How long did you stay there? A. Raised a crop there, a crop of corn, and staid there until June or July.
Q You say you staid on the east side of Grand River until March of 1866? A. That was when I first moved back here.
Q You spoke of going first, when you got back, to a place on the east side of Grand river, when did you get there? A. The first days of February '66.
Q How long did you stay there? A. 7 or 8 days.
Q And then you came over here to Bull creek, is that right? A. Yes sir.
Q How long did you stay at this place at the mouth of the Creek? A. We staid there until along in June or July.
Q Of what year? A. '66.
Q Then what did you do? A. We moved down to what was called the old Ark Simmons place.
Q Where is that? A. About a mile from the old Lewis Kell place.
Q How long did you stay there? A. We staid there until some time maybe in October, can't tell exactly.
Q Was it of the same year? A. Yes sir.
Q Then where did you go? A. Went to the Six Mile Bottom on Mc-Grarie's place.
Q How long did you stay there? A. I don't know exactly—George Clark bought the place and we moved off.
Q Was that the same year? A Yes sir.
Q Where did you go to then after you left the place George Clark bought? A. Went to the Dr. Thompson place.
Q Still in '66? A Yes sir.
Q How long did you stay there? A. Until some time along in '67, cant tell exactly.
Q Was it in the summer or fall? A. I left there in the summer of '67.
Q You say that you left Joe Lynch up on Neosho Falls? A. Yes sir.
Q When did you see him again after leaving him up there? A. I saw him while I was living on this Six Mile Bottom, he came down there to see his brother in law Simon, and to locate him a place.
Q Six Mile Bottom of what creek or river? A. Grand river.
Q On which side of the river? A. The west side.
Q Did he pick himself out a place there? A. Yes sir.
Q Is that the place he is living on now? A. Yes sir.

By A. S. McRea:

Q Do you know Mr. Lynch, when Joe Lynch came to this place that you speak of to seek him out a location, do you know when it was?

A It was in the fall of '86.

Q Well you have known him to have lived in the Cherokee Nation continuously ever since he first moved to that place have you not?

A He has never moved off of it since he came there.

By W. W. Hastings:

Q When did he move here with his family? A. He got here with his famil in '87.

Q Was it in the fall? A. In the Spring or summer.

Q How long did he stay when he first came? A. A week or ten days.

Q Then did he go back? A. Yes sir.

Q He had no means then did he—no body had any at that time did they? A. No sir, not much.

Q Was he a horse-back or foot the first time you saw him? A. He was horse back when he came there to look up a claim.

Q How many children did he have when he came in the following spring or summer with his family? A. I cant remember just exactly, must have had three, four, five or six, I dont know just how many.

Q Did they come in wagons that time? A. Yes sir.

Q When he did come back with his family, where did he move to? A. Right on the place where he lived now.

Q He never went back to the Joe Lynch place? A. No sir, right where he lived now.

Q Is that in Delaware district? A. Yes sir, right close to Guss's.

Q How far is that from the old Joe Lynch place where he used to live before the war? A. 4 or 5 miles.

Q In the same neighborhood though? A. Yes sir.

By A. S. McRea:

Q Are you acquainted with the children of Joe Lynch? A. Yes sir Well, year sir, I cant give the names of them all, I cant count them all, he cant even count them; I knows them but I dont know their ages and cant give all their names. He cant even do that himself.

Q Have you any knowledge of your own how old the oldest one of his children is? A. No sir, I cant tell.

Q Are you acquainted with the oldest one? A. I knows them all but I cant tell nothing about their ages, I lives there in two miles of them but I cant tell nothing about their ages.

Q Were they all born here in the Territory? A. I think he brought two of them with him from Kansas when he come here first.

Q When he moved here with his family you mean? A. Yes sir.

Q Where the others all born here? A. I think they was.

Q You dont know which ones were born in Kansas? A. No sir, I think though that Hester—a girl—and the other one—I don't know—I dont know if any others was born there or not; the others though was all born right there where he lived. I dont know how many he brought with him from Kansas.

Q Is the one that you referred to by name the oldest one? A. Yes sir, that I know of.

Q You dont know if they have any older ones or not? A. No sir I dont know

By the Commission:

Q This place that you say that you saw Joe Lynch the first time when he came here to locate him a place, when he came here first on horse-back, was that in what you call Six Mile Bottom? A. No sir it was on the prairie, right on top of the prairie.

Q You were living then yourself on the Six Mile Bottom? A. Yes sir I was about four miles below there.

Q And when you next saw him it was in the following summer? A. Yes sir.

Q When he was moving his family? A. Yes sir.

Q Did he move them all to this place near Six Mile Bottom? A. Yes sir.

Q How far from where you lived was this place? A. Must have been 4 or 5 miles or maybe six miles.

Q Were you at his place when he got there? A. No sir, he was there when I saw him, he was right there.

Q How long had he been there when you first saw him and his family? A. I can't tell you that.

Q But that is the first time you saw him after you saw him on horse back by himself the year before? A. Yes sir.

Q You don't know if he had just come or not? A. No sir I never asked him.

Q Do you remember when he married in Kansas, or were you present at the time? A. No sir I wasn't there; he married in '65 or '66, because we both belonged to the same regiment and were mustered out together and I left him there and during the time I left him there he married.

* ANDERSON LYNCH, called and sworn by Commissioner H. R. Breckinridge, as a witness, testified as follows on the part of the applicant: (Examined by Com'r Breckinridge)

Q What is your name? A. Anderson Lynch.

Q How old are you? A. I am about 64.

Q What is your post office? A. Vinita.

Q How long have you lived in the Cherokee Nation? A. I was born and raised here.

By A. S. McRea.

Q Are you acquainted with the applicant, Joe Lynch? A. Yes sir.

Q How long have you known him? A. All my life.

Q Did you see him here in '66? A. Yes sir.

Q What time of the year was it that you saw him? A. It was in the fall of '66.

Q Where was it that you saw him? A. It was right there on the river, he was making a claim where he is now living.

Q Did you know him before the war? A. Yes sir.

Q Who did he belong to? A. To Joe Lynch, the same man I did.

Q Are you acquainted with his wife? A. Yes sir, a little, I have seen her in Kansas.

Q When did you see her in Kansas? A. In '65, when I first got acquainted with her.

Q Where they married then? A. Yes sir.

Joe Lynch et al 11.

Q Do you know when Joe Lynch went back to Kansas for his family after he had first been here to locate him a claim? A. Yes sir it was in the winter, and I think that he went up here to George Mission and had to stay a while and never got back here until in the winter of '87.

Q And did he then bring his family and locate where he is living now? A. Yes sir.

Q Did they have any children born in Kansas? A. They had one that I remember of, a girl.

Q What is its name? A. Hester.

Q Was she born in Kansas? A. Yes sir, I know she was.

Q How old was she when she came here from Kansas? A. I don't know exactly.

Q Of your own knowledge, has Joe Lynch lived in the Cherokee Nation continuously ever since he came here in '86? A. Yes sir.

~~By W. W. Hastings:~~ By W. W. Hastings:

Q Have you ever been tried for anything? A. Oh yes I has been tried.

Q What for? A. I has been tried for murder.

Q What was done with you? A. I was acquitted.

Q Ever been tried for anything else? A. No sir.

Q You know Joe Lynch before the war did you? A. Yes sir, we was raised together.

Q Where did you live at the time that you say Joe came back here in the fall of '86? A. On Lynch's Prairie, and heard of him being over there and came over to see him.

Q Is Lon Lynch your young master? A. Yes sir.

Q And you say that Joe brought back his family from Kansas to the Cherokee Nation in the fall or winter of '87? A. Yes sir, it was in cold weather.

Q He had one child then that you remember? A. Yes sir, he didn't have any children with him the first time he came, he came the first time on horse-back by himself.

Q I mean when he brought his family--his wife? A. Yes sir.

By A. S. McRea:

Q You are a Cherokee citizen are you? A. Yes sir.

APPLICANT, re-called and examined by the Commission:

Q How did you get at the ages of these children that you handed in on this slip of paper? A. I got a man to put them down.

Q Who told him the ages to put down? A. I did, I just had to guess at it; I didn't know their ages exactly and had to guess at it, and he put them down as I said I thought they was.

By W. W. Hastings:

Q Is your wife living? A. Yes sir.

Q Where was this list made out? A. It was made out over at home.

Q Was your wife present when it was made out? A. Yes sir she was.

Q You talked with her about their ages didn't you? A No she can't count none; I talked with the man that put it down; ofcourse she was standing there listening to me.

Q You are some times known by a nick-name are you not; as Joe Buzzard or Joe Lynch? A. Yes sir.

C. L. Lynch, called and sworn by Commissioner G. R. Breckinridge, testified as follows on behalf of the Cherokee Nation:
(Examined by Com'r Breckinridge)

Q What is your name? C. L. Lynch.

Q What is your age? A. 60.

Q What is your post office? A. Stillwell, I. T.

Q How long have you lived in the Cherokee Nation? A. I have have lived here all my life.

Q Do you know the applicant here, Joe Lynch? A. Yes sir.

Q Did he belong to your father before the war? A. Yes sir.

Q And at the time of the war? A. Yes sir to to the war to my father's estate.

Q Do you know what became of this man during the war? A. He went to Kansas.

Q Did his wife Sophia belong to your father? A. No sir, I am not acquainted with his family.

Q Do you know when this man came back to the Cherokee Nation after the war? A. Not exactly.

Q What do you know of his coming back? A. Well I came back myself in the winter of '66 and '67, in January or February.

Q And when did you first see this man after the war? A. The first time that I saw him since the war was to-day a week ago.

Q Just a week ago? A. I never saw him from then until last Tuesday a week ago.

Q Do you know where he lives near Six Mile Bottom? A. Yes sir I have been to his house three or four years back, but he was not at home, I have not seen him since '68 until last week.

Q Then you have no knowledge of your own as to when he came back from Kansas to the Cherokee Nation? A. No sir, I came back myself in '67 and stopped in Flint district and was going backwards and forwards from Flint to my old place in that year of '67, and I found some of the negroes there, but Joe Lynch had not come in yet in '67.

Q Did you pass by where he is living now in your wanderings back and forth? A. No sir he was not here then.

Q I mean did you pass by that locality where he now lives? A. Yes sir I was well acquainted with the country round there.

Q Was you by there in your rounds in 1867? A. Yes sir I was all round there and there was no house there then.

Q In 1867 did you go to the exact spot where this man now lives? I don't know that I did go by the exact spot, but I was round through the country there, backward and forward.

Q What time in 1867 were you there? A. I got back in February of '67

Q Was you right there where this man now lives in February of '67? A

I don't know that I was right where he lives.

Q What time in '67 were you in that neighborhood? A. I went around through there frequently.

Q Were you there in the fall or summer of '67? A I was right across

Joe Lynch et al is.

the river then, from the place where this man says he lives.
Q Did you go through that neighborhood in the summer or winter fall of '87? A I don't remember if I did go through the exact place that this man lives at but I was on the other side of the river, just opposite two or three miles from there.

By W. W. Hastings:

Q You passed by his place about three years ago you say? A. Yes sir about 3 or 4 years ago, I went to his house but I did not find see him as he was not at home.
Q About how far is that place from your old place? A. Well I guess it is about 3 or 4 miles.
Q On which side of the river was your old place? A. On the south side.
Q Of Grand river? A. Yes sir.
Q When did your father die? A. In 1861.
Q About the time the war came up? A. Yes sir.
Q Did your father leave any property in that neighborhood in the way of farms and improvements? A. Yes sir, left all his property there.
Q What were you doing up there in '87 after you returned to the Cherokee Nation? A. I came back and found my old place sold under the confiscation act and another man living on it, and I was up around there to look after it and the property my father had left.
Q How much of your time did you spend in that neighborhood in '87? A. Well I lived some of the time in Cooweescoowee district on Grand river, I had some folks living there, and then I lived in Flint off and on during '87.
Q You say you never saw this man Joe Lynch in that neighborhood any time during that year? A. No sir.

By the Commission:

Q How far is Joe Lynch's home from your father's old home? A. 5 or 6 miles.
Q Have you lived at your father's old home ever since the war? A. No sir.

By A. S. McRea:

Q When you came back for your interests in '87, you were only looking after your own interests and nothing else were you not? A. Yes sir I was just looking after my property there.
Q You don't know whether or not Joe Lynch was at the place that he states he was or not at that time? A. He was not there.
Q You are positive that he was not there? A. Yes sir.
Q I understood you to say that you never went to the exact spot where he now lives until about three years ago? A. There was no place there at all at that time.
Q That was a very isolated country up around there then was it not? A. Yes sir it was not settled up much then, not as many there as there are now by any means.
Q It is possible that he could have been around there when you first came there and you not have seen him, is it not? A. Oh yes it is possible.

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Q Then he might have been there and you not have run across him?
A No night.

By the Commission:

Q Did you see any of the rest of your father's slaves around there at that time? A. Yes sir.
Q Did you visit them? A. Yes sir, I saw them all that was there, at the old place.
Q Did you make any inquiry as to where the rest of them were? A. I inquired for Jas and the balance of them.
Q Did you dispose of that property that year or the next? A. No sir I was the only one here at the time.
Q When did you get rid of it? A. I cannot say exactly, my brother and Col Bell were administrators and they sold it when they got back.

JOSEPH L. THOMPSON, called and sworn by Commissioner G. R. Breckinridge, testified as follows on the part of the Cherokee Nation: (Examined by Commissioner Breckinridge)

Q What is your name? A. Joseph L. Thompson.
Q How old are you? A. 32.
Q What is your post office? A. Vinita.
Q How long have you lived in the Cherokee Nation? A. All my life, except one year.

By W. W. Hastings:

Q When did you come back to the Cherokee Nation after the war? A. I got back to Cabin creek in January, 1863.
Q Do you know the applicant, Joe Lynch? A Yes sir.
Q Do you know where he lives now? A. Yes sir.
Q How far did you live from him then? A. When I first settled there it was a mile or two and a half and now it is two miles.
Q Was he living there when you came back to the Cherokee Nation in '63? A No sir.
Q When did you say you returned? A. January '63.
Q And he was not living there at that time? A. No sir.
Q Did he move there since then? A. Yes sir.
Q You were living then about a mile and a half from where he lives now? A. Yes sir on what was then known as the Ashbeens place.

By A. S. MaRoa:

Q How long have you known Joe Lynch? A I have known him nearly all my life, he belonged to my uncle.
Q Do you know where he went to during the war? A. No sir, he came from Kansas after the war, but I don't know where he was all during the war, Kansas though I suppose.
Q Did he leave here during the war? A. Yes sir.
Q When did he leave? A. I don't know.
Q When did he return to the Cherokee Nation after the war? A. To the best of my knowledge he returned in '63.
Q Where was the first place that you saw him in '63? A. Where he

Joe Lynch et al 15.

now lives.

Q How long had he been there when you first saw him? A. Only a few days.

Q Has he been living there continuously since '83? A. Yes sir, I have been living there myself ever since and I have never known of him moving away.

Q Can you state positively of your own knowledge whether or not he was here in the Cherokee Nation before '83? A. He was not living where he now does before that.

Q How do you know that he was not living where he is not before that time? A. Well I was over the prairie frequently and did not see him until about that time.

Q What kind of a country was it around there? A. How do you mean?

Q Was it isolated and grown up with brush and timber or were there lots of settlements around there? A. Well there were only a few people living around in that part of the country then.

Q Was it wooded? A. No sir he lived out on the edge of the prairie like

Q How far did you say you were living from where he does at the time you first saw him? A. About a mile and a half.

Q Then you say you moved to another place? A. Yes sir it was about two miles from his place.

Q Do you still live there at that place? A. Yes sir.

Q Does he still live at the same place that you first saw him at? A. Yes sir.

Q How long have you been living at the place you now live at? A. 20 years or more, yes it has been longer than that.

WALTER A. WEST, called and sworn by Commissioner G. R. Breckinridge, testified as follows on the part of the Cherokee Nation; (Examined by Commissioner Breckinridge)

Q What is your name? A. Walter A. West.

Q How old are you? A. 68.

Q What is your post office? A. Spavinaw.

Q How long have you lived in the Cherokee Nation? A. All my life.

By W. W. Hastings:

Q Mr. West, where did you live the first few years after the war?

A Over here on the Military Road in Delaware district.

Q Do you know Joe Lynche, the applicant here? A. Yes sir.

Q Do you know where he lives? A. Yes sir.

Q How far did you live from him at any time? A. Well when he first came here after the war he lived two miles from me.

Q When did he settle there? A. He came there in the spring of '83 to the best of my recollection.

Q Are you positive that he was not there before the year '83? A. No he was not there.

Q How far did you live from him? A. Two miles.

Q How long had you lived there? A. I moved there in the latter part of '83; during the first part of '84 I lived in close to Neosho and lived there two or three months and then in town up to May, and then I lived near Fort Scott Kansas and then I came down here and made a place and lived on it until in '85 and sold it to him and then moved to where I am now living.

Joe Lynch et al 15.

Q Then in '67 and '68 you were living near the old Military road and near where this man lived? A. Yes sir up to November '68.

Q Where did this man first come to after the war, to the place where he now lives? A. I saw him on the old military road and he said that he had come from Kansas, and he settled near there and made a place; I could see it from my house, it was just in sight. It was close to what is now Hips place.

Q And you say that was in the spring of '68? A. Yes sir that was in the spring of '68.

Q How long was it from the time you saw him on the old military road until he settled on this place? A. That same spring that I saw him on the military road coming from Kansas.

By A. A. McKee:

Q Mr. West, how long have you known Joe Lynch? A. I knew him before the war when he was a little boy called Buzzard.

Q Where did he go to during the war? A. I don't know.

Q Did he leave the Nation during the war? A. I don't know except that he told me that he went to Kansas.

Q When did he leave the Cherokee Nation to go to Kansas if you know? A. I don't know.

Q When did he return? A. I'm '68.

Q How do you know that he returned in '68? A. He came to my place and said he had come from Kansas.

Q How was he traveling? A. In wagons of course, there was no railroad through here then.

Q Who was with him when you first saw him? A. He was supposed to have his family with him.

Q What family? A. Wife and child is all that I saw.

Q Where did he go to then? A. Cross the river where he said he was going over among his acquaintances and relations and then he came back on this side and made him a place.

Q When did he locate his present place, where he now lives? A. In the same year, '68.

Q Can't you possibly be mistaken? A. I can possibly be mistaken, but that is my judgment.

Q How long have you lived in the neighborhood where he now lives? A. Ever since November 1868.

Q Do you know anything about the character and nature of that country before '68? A. Yes sir.

Q What was the condition of it, open land or wood? Was it well filled up with settlements? A. It was not as thickly settled as it is now, there was some timber woods down in the bottom.

Q Was it a wild sort of country? A. Well I guess you might call it sort of wild, there was lots of game in around there.

Q And you are positive that he was not located in around there before '68? A. I did not see him until that time in '68.

Q Is it not possible that you might not have seen him in around there and him yet be living there? A. Well I don't hardly think it is for I was around through there pretty much hunting deer and would have run across him.

Q Is it possible that if Joe Lynch had been a deer that you would not have seen him there at that time on account of the isolated sort of country it was? A. No sir not if I had had a Winchester with me it is not likely that he could have got away for I was pretty good at killing deer then days.

Q Is it not possible that he could have come back to the Cherokee Nation from Kansas before '88 and you not have seen him? A. Yes it is, but the first time that I saw him was there on the old Military road coming by my place from Kansas, as he said, and that was in the spring of '88. He could not have come by there and settled where he now lives without my having seen him.

Q You don't know of your own knowledge when he did come back to the Nation? A. I know that he did not come to where he now lives until in '88.

By the Commission:

Q You are not living in the same neighborhood now that you were when Joe Lynch came back? A. No sir, I live six miles from him now and when he came back I lived two miles from him.

Q I understood you to say that when he came back the first time and settled that you were living two miles from where he settled?

A. Yes sir.

Q That was within two miles of where he settled then and also where he now lives? A. Yes sir.

Q When did you begin living on that place yourself—the one you were living on when you first saw the applicant here? A. In the latter part of '86.

Q And you lived there I believe you stated, until the latter part of '89? A. Yes sir until in November of '89.

By A. S. McRea:

Q Is it not true that you never came to this particular place where you are living now until in '89? A. I went there in November 1889.

Q I was speaking of the place where you lived before coming to the place you now live at? A. I went there in '86 and made it my home and raised crops there until I sold it to him and moved away in '89.

JOE LYNCH, the applicant, recalled and examined by A. S. McRea:

Q Are you acquainted with Mr. Thompson who has just testified for the Cherokee Nation? A. Yes sir.

Q How long have you known him? A. All my life, ever since I was big enough.

Q Did you see him in '86 when you came to the Territory where you are now living? A. No sir, I came by myself on horse back that time and never seed him.

Q When did you first see these witnesses? A. Must have been in '87 that I seed him.

Q Where was it that you saw Mr. Thompson and Mr. West in '87? A. I saw Mr. West across the river.

Q And not at the present place where you are now living? A. No sir when I come down there I never seed nobody.

Q When you brought your wife and family in a wagon did you see Mr. West as he swears you did? A. No sir I never.

Q Then he did not see your family and you? A. No sir.

Q If you had seen him you would have had some recollection of it would you not? A. Yes sir.

Q How long has Mr. West lived in the neighborhood where he now live

lives—did he live two miles from you when you first settled there?

A No sir he never lived there when I come there, he come and got a place close by there and lived there after that.

Q When was that? A In '57, when I was living there.

Q What time of the year, in January or in December or in the summer or when? A Long in March of '57.

Q Did you know Mr. West before the war? A Yes sir.

Q If you had met him in '57 you would have some recollection of it would you not? A Yes sir course I would.

Q Is the statement of Mr. West that he saw you passing his house on the old Military road with your family in a wagon in the spring of '68 true? A No sir that is not true.

By the Cherokee Nation, W. W. Hastings:

Q Mr. West was living within a short distance of you when you located there? A He was on a place there three or so miles from me, he was on the old Military road and I was near Grand river.

By A. S. McKee:

Q When did you ~~commence~~ permanent residence begin down there? A It commenced long in the winter when I commenced making my field.

Q In the winter of '66? A Yes sir.

By Com'r Breckinridge:—The applicant applies for the enrollment of himself, his wife and six children; it is developed in the course of the inquiry that one of the children for whom he applied is married and his application is reduced to five children. It seems that the applicant was a slave in the Cherokee Nation and of a Cherokee citizen prior to, and at the breaking out of the war between the United States and the Confederacy. He appears to have enlisted in the United States army and to have gone to the state of Kansas, from which state he returned after the war. The applicant is not identified on the roll of 1884, or upon that of 1896, or upon the Kerns-Clifton roll, he is identified on the Wallace roll. He married in the State of Kansas, and in his first testimony stated that he there lived until after the birth of his first child; that his wife had gone to the state of Kansas from the Cherokee Nation during the war, the she remained there four years prior to their marriage and that they returned to the Cherokee Nation one year after their marriage. The testimony relating to the time when his wife went to the State of Kansas is not present at this time, it having been taken by another stenographer, but that can be inquired into later. The applicant subsequently denied that any of his children were born in the state of Kansas, but it is averred by other witnesses, including one of his own, that when he returned to the Cherokee Nation he was accompanied by one child, and one of the witnesses affirms that he was accompanied by more than one child. Witness also lived in the neighborhood in which the applicant located, according to his own testimony, immediately after his return, and at which spot he has continued to live ever

since, affirm that he came there in the year 1866 with his family. The applicant affirms that he came there first on horseback in the fall of '66 and moved his family to this locality prior to the spring of '67. The testimony is very voluminous, but is referred to for fuller information in regard to its character. The applicant will now be listed for enrollment as a Cherokee Freedman of a doubtful card and the final decision of the Commission will be made known to him at his post office address. The applicant's age guesses his age at 60 years and that of his wife at 50 years. She appears to partake of all the rights and status enjoyed by himself and she will now be listed for enrollment as a Cherokee Freedman on a doubtful card; she being identified like the applicant on the Wallace roll, but not upon any other roll. The five children applied for, and who are said to be minors, and whose applications are received at this time, are respectively Eliza, Cynthia Jane, Randolph, Ruth and Jackson; these children range in age from 11 to 18 years, they are all said to be living now, there is no dispute as to their identity or of their being living at this time; they are not identified on any roll, but they will be listed for enrollment with their father and mother as Cherokee Freedmen upon a doubtful card. The final decision of the Commission in regard to all of these applicants will be made known to them through their father at his post office address.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the continuation of the above named case from one o'clock P. M., May 21st, 1901 at Vinita, I. T., and that the above and foregoing is a full true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 28th of May, 1901, at Chelsea, I. T.

Chas von Weise
A. M. H. H. H. H. H.

Commissioner.

File with Cherokee Freedmen, D-³⁷⁶~~576~~

Joe Lynch

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1901.

In the matter of the application of Joe Lynch et al. for enrollment as Cherokee Freedmen.

Testimony introduced by Cherokee Nation.

Appearances:

A. S. McRea, attorney for the applicants;
J. S. Davenport, of counsel for Cherokee Nation.

REES CRAVENS, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q What is your name? A Rees Cravens.

Q How old are you? A I am about 48.

Q What is your postoffice? A Vinita.

A. S. McRea: In view of the fact that the Cherokee Nation has already offered rebuttal testimony in the Joe Lynch matter, I ask that they state in advance what material fact they wish to bring out, whether it is on new matter or what. I certainly object to any testimony unless it is upon some new matter that they wish to bring out or develop.

Mr. Davenport: We will state, in introducing testimony, unless the record shows that we have closed upon the questions of disproving allegations of the applicant which he has attempted to prove, that is, of the ownership, and his return to the Cherokee Nation within the time provided by the treaty, that we will still introduce testimony. It may be possible the record shows we closed; of course if it does I agree with him, but if it does not show that fact, we are still on our branch of it.

Commissioner: Can the attorney for the applicant cite anything in the record in the nature of an agreement or understanding that the case has been closed.

A. S. McRea: That was my understanding.

Commissioner: Can you cite anything in the record to that effect?

A. S. McRea: Except to this extent; the son, in the person of Mr. Len Lynch, of the owner of the applicant, testified as to the ownership, and he also gave testimony as to the return, and naturally the presumption would be that the testimony on the part of the Cherokee Nation was closed.

Commissioner: What do you propose to prove by these witnesses?

Mr. Davenport: That he did not qualify within the time provided by the treaty, and that he has not resided here continuously since then.

Commissioner: The Commission is compelled to pursue a very liberal course in regard to these cases, though it is aware of there being in some respects very trying to counsel on both sides, and it is also very trying to the Commission. The law under which the Commission operates seems to require, for a practical discharge of the obligations imposed, rather more latitude than is usually allowed, and the objection of counsel for the applicant is noted in the record. At the same time, however, in this case the testimony will be taken into consideration, in connection with the objection, by the full Commission. The proceedings and requirements of the Department are very liberal towards applicant; at the same time they regard that the record in some instances being unnecessarily enlarged. You are pressed with the witness.

Mr. Davenport: How long have you lived in the Cherokee Nation?

A Oh, I have lived in it off and on ever since the close of the war.

Q Did you ever live in Kansas? A Yes, I lived in Kansas.

Q Live in Iola, Kansas? A Lived in Iola about 12 or 13 years.

Q About what years did you live in Iola? A I lived there in '83 or '4, '8, along in there, different years, I was in and out, that was my home when I was around in there; I lived in different parts of Kansas.

Q Do you know the applicant, Joe Lynch, in this case? A Yes, I have seen him.

Q Do you know where he lives now? A Down here on Grand River not far from Island Ford.

Q Did he ever go by any other name, if you know? A Some calls him Joe Buzzard and some Joe Lynch.

Q When did you first get acquainted with the applicant? A When he lived in Iola, Kansas.

Q When was that? A That was along, oh it must have been 35 years since I first knew him, or close onto that.

Q When was the last time you knew him living in Iola, Kansas?

A I can't tell you the exact time when I did see him because --

Q Where did you first get acquainted with him? A In Iola, Kansas.

Q When was that with reference to the close of the war? A Not long after the close of the war.

Q Did he have a family? A Yes, he had a wife, I don't remember now how many children he had.

Q What was his wife's name? A Some calls her Foss and some calls her Sophia, she answers to either one of them names.

Q Was his family living at Iola when you first got acquainted with him? A Yes, sir.

Q How long did they live there? A Oh, they lived there seven or eight years or more, he used to work for Ben Harvelly cutting wood, and the Davis boys.

Q You got acquainted with him in Iola, then, after just after the war? A Yes.

Q And he lived there to the best of your knowledge about how many years? A He must have been there eight or nine years, somewhere along there, six or seven, I never kept no count of it before he left there.

Q Do you know anything about his children, did he have any? A I have seen his children, but I never took no particular observation of them, I seen them all.

Q Did his family live anywhere close to you? A Right close, his wife used to stay in the house with my wife.

Q Where was he? A He was working, chopping saw-logs and working around down there.

A. S. McRea: What is your occupation? A All 'round man, no particular work, any line there is a dollar or five cents in, any man got a job of work, don't follow any one certain thing.

Q How long after the war was it that you first became acquainted with the applicant, Joe Lynch? A I don't know the exact time, but I know I met him in town there for a number of years, right around that town, I don't know when he left.

Q You don't know as regards -- you didn't know him in the year 1866?

A I wouldn't say for certain, I expect I did but I will not say for certain.

Q Do you know anything about his ownership? A No, sir, don't know that.

Q His going out of the Cherokee Nation during the war, you know anything about that? A I know he came up there to Kansas.

Q When did he remove there? A I don't know exactly when he came, he came with old Uncle Moss Griggs and James Darler and them.

Q When was that? A That was right after the war, or time of the war, close onto that, right along there near the time they raised out of here.

Q Well, when did he return? A I don't know when he returned.

Q How long before the war was that? A Before the war, it wasn't before at all.

Q It was after the war? A Yes, sir, he wasn't up there before the war.

Q You don't know where he went to before the war? A No, sir.

Q How long did you live in Kansas? A I have been in and out there ever since the close of the war, I came to Iola, up here to Chetopa, Kansas, when the first house was ever built.

Q I will ask you if you are a citizen of the Cherokee Nation?

A I am a married man here, I married into citizenship here.

Q Just answer my question, yes or no? A I have never made no claim, no application for any claim.

Q And you have no particular calling for a living? A I do anything that I can make an honest living at.

Q Mention some of the things you do? A Haul, clean up, do anything, out wood, anything in general.

Q How long do you work at any one particular work? A Just as long as that job is done, then I look for another.

Q What do you realize out of these jobs? A Whatever I can get out of them, and when that is done I am looking for another one.

Q How long have you been married? A I have been married twelve years, a little more.

Q To whom were you married? A I was married to Louisa Ross.

Q And you know Joe Buzzard? A Yes, I have been knowing him right round here for a number of years.

Q How long have you known him right around here? A I have known him in and out I think about 20 years when I first been in and out, I have seen him at different places.

Q Well now how long have you known him in and out in Kansas? A I told you how long, I told you he lived there but I don't know when he left there.

Q What part of that in and out was in Kansas? A I must have knowed him seven or eight years right around Iola there and maybe longer.

Q That was since the war? A Yes, he lived there.

Q Didn't you testify a while ago that you have been knowing him for 35 years? A I did, I expect I have known him longer than that, I didn't say positive, I expect I have knowed him longer than that in my rounds, I didn't stay right around him all the time.

Q 25 years of that time you have known him in the Cherokee Nation?

A I didn't say positive I have known him that long right in one place, but I can say positively I have knowed him right here in the Cherokee Nation for 15 or 20 years.

Q How long did you know your wife before you married? A I knowed her about three or four years.

Q And you been married to her twelve years? A Yes, maybe longer.

Q Where did you first meet her? A In Iola, Kansas.

Q You married her in Kansas? A Yes, sir.

Q Then when did you move to the Cherokee Nation with her? A Well when I first come down here with her, to the best of my knowledge, which I can prove by facts, little Ike Martin was a boy about that high.

Q I don't know him, tell about how many years? A That must be close onto 25 or 30 years, longer I expect, little Ike I expect is 25 or 30, I used to know him, I used to come here and hire a horse and buggy and he take me around over the Nation.

Q You knew your wife four years before you married? A I expect I knew her longer than that.

Q Come down to the fact of it? A I haven't got any specified time how long I knowed her.

Q I want to ask you the question? A Well I have done answered that.

Q Now you say you knew your wife four years before you married her?

A I expect I did and maybe longer.

Q Well how much longer? A I didn't say how long.

Q You married her in Kansas? A Yes, sir.

Q Stayed there about 12 years with her? A Yes, sir, I stayed in different parts of Kansas.

Q And came to the Cherokee Nation with her? A Yes, sir.

Q Now how long have you lived in the Cherokee Nation with her?

A Right here in this town, I have been permanent in this town, about five years, permanent.

Q With you and your wife? A Yes, sir.

Q You said now that you knew him in all 35 years? A Knew who for 35 years?

Q Your wife, knew her for 35 years? A I am just telling the time and different places I have lived.

Q Didn't you tell you have known your wife altogether 35 years?

A Maybe longer.

Q And yet you knew her four years before you married her?

A I can't give you any positive time about that.

Q Lived with her 12 years in Kansas? A I can't give you any positive time, I lived with her about 12 years, I lived with her 12 years, she has been dead now about nine months, altogether will make about 12 years.

Q You lived with her 12 years in Kansas? A I didn't say I lived with her that long in Kansas, I say I lived, I expect I have lived with her that long.

Q The fact of the matter is you don't know anything about any of it?

A I know anybody I see, if I see you and anybody ask me if I see you I can tell them I see you.

Q Do you swear this Joe Lynch is the same one lived in Kansas, Iowa Kansas, 40 years ago? A I didn't say 40, 50 he lived there, and I can prove by dozens of people.

Q How long? A I didn't tell you how long.

Q How long did you say? A I didn't say but I tell you he lived there.

Q How long did he live there? A I told you he lived there about seven or eight years around about the country and when he moved I don't know, it aint no use for him to say he didn't live there.

Q We don't propose to argue the question. A Well you talked like he didn't live there; he lived right there.

Q Now I want to go back with reference to the number of years you lived with your wife? A You needn't go back, I have told you all the reference you will get out of that, I told you that now, you are just losing time, I am not telling you the positive date about how long I lived, but I tell you what I can do, I have the papers down in my trunk will tell the dates, they tells you the dates, they are recorded and you can't dispute them.

Q Now according to your estimate you lived with and known your wife 16 years; is that right? A You can make it as you please, I have give it now according to my best knowledge, I kept no record of it.

Q In other words, you just come here to swear against Lynch? A I don't have it to do, I wouldn't lie for you if you were my daddy.

Q Now didn't you just come here to swear against Joe Lynch? A No, sir I haven't got nothing against the man, not a thing sir, but I don't propose to tell a lie for nobody, a man can't hire me to do that; no, sir; if I am acquainted with a man and a man ask me if I know him --

Q Well how many children did Joe have in Kansas? A Well I know one time me and my wife was down there, and I couldn't count them, I says, Toots, how many children have you got for Long rakes, and she says, Mr. Cavers, you see them running around here like quails, count them, and I couldn't count them.

Q How many did you count? A I counted eleven or twelve; but I understand that he was the father of 22, I don't know it by the facts,

the last count he had 22 I think what his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Cravens, how long have you known Joe Lynch, all told?

A I can't tell you exactly, all told, but you asked me how long did I know him and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out ever since the close of the war.

Mr. Davenport: Did you have any neighbors up there at Iola, Kansas, do you remember the names of any that know about Joe being there?

A Yes, there is Dr. Chertson, Dan Harvally, Will Davis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably here, or their representatives.

A. S. McKee: Now, your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedmen cases D-383, D-384, D-385, D-386, D-387, D-428, D-429, and D-233.

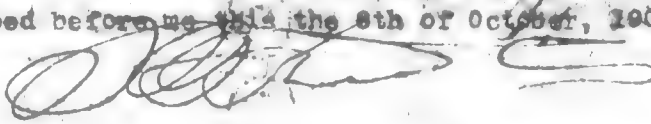
Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedmen D-576.

Note: Copy of testimony also should be filed in case of Robert Foster, D-582, and in D-270, as to children of Piley Curls and Nancy Curls.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 8th of October, 1901.



Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I.T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee Freedmen.

APPEARANCES:

Applicant appears in person and by attorney, A. S. McRea. Cherokee Nation by its representatives W. W. Hastings and L. B. Bell.

SIMON LYNCH, being first duly sworn, testifies as follows:

BY MR. McREA:

Q What is your name? A Simon Lynch.
Q What is your age? A 74.
Q What is your postoffice? A Spavinaw.
Q Are you a recognized citizen of the Cherokee Nation? A I don't know, I guess I am, I hardly know.
Q Does your name appear upon the authenticated roll of 1880? A I reckon so, I don't know.
Q You are an applicant for citizenship in the Cherokee Nation, are you not? A Yes sir.
Q Are you acquainted with Joe Lynch, the applicant who made application for enrollment as a citizen of the Cherokee Nation on May 21, 1901? A Yes sir I know him all his life pretty near.

BY MR. HASTINGS:

Comes now the representatives of the Cherokee Nation and asks permission to interrogate this witness as to his competency to testify.

BY MR. HASTINGS to witness:

Q Your name is Simon Lynch? A Yes sir.
Q You live in Saline District? A Yes sir.
Q You have lived there since the war? A Yes sir ever since.
Q And you are the same Simon Lynch that was convicted of the larceny of some hogs? A Yes sir, and I was not there when the hogs were stolen.
Q You were sent to the the Cherokee jail at Tahlequah, Indian Territory? A Yes sir.

BY MR McREA:

Comes now the attorney for the applicant and objects to the motive of examination relative to the competency of the witness for the reason that the witness having been convicted of some crime committed in the Cherokee Nation under the Tribal Government is no test of witnesses competency to give any testimony in cases of this character, in view of the fact that under the laws of Congress enacted and put in force in the Indian Territory, the witness herein is now declared under and by virtue of said laws a United States citizen clothed with all the rights and privileges of other citizens of the United States.

BY MR. HASTINGS:

Q You were convicted of stealing hogs from Charles Thompson, who was afterwards Chief of the Cherokee Nation? A That is what it was said.

Q That was the Cherokee penitentiary at that time at Tahlequah? A I don't know what it was.

BY MR. MORRE:

Q How long have you known Joe Lynch? A Ever since he was a little boy.

Q Was he a slave of a Cherokee citizen of Cherokee blood? A Yes sir.

Q Do you know whether or not of your own knowledge that Joe Lynch went out of the Cherokee Nation during the war of the rebellion? A Yes sir.

Q Do you know to where he went? A No sir, I don't know.

Q Do you know when he returned back to the Cherokee Nation? A Yes sir.

Q State when you first saw him in the Cherokee Nation after the war? A In the fall of '66.

Q At what place in the Cherokee Nation did you see him? A In the six mile bottom there at my house.

Q You were then living in the Cherokee Nation? A Yes sir.

Q Did you have any conversation with him? A Yes sir stayed all night with me.

Q Did he state to you at that time for what purpose he returned to the Cherokee Nation? A Coming to look out a home.

Q How long did he remain? A About three days.

Q Do you know where he went after that? A Said he was going back to Kansas.

Q When was the next time you saw him in the Cherokee Nation? A About the first of February he moved down.

Q Of 1867 was it? A Yes sir.

Q Did he bring his family out that time? A Yes sir.

Q You have known him to reside in the Cherokee Nation continuously ever since? A Never anywhere else that I know of.

Q How many persons did his family consist of at the time he returned in February, 1867? A One besides him and his wife.

BY MR. HASTINGS:

Q Where do you live now? A I live right there adjoining places to my old bees' place in Saline District.

Q Were you living there at the time Joe Lynch came to your house as you have stated the first time? A No sir.

Q Where were you living at that time? A In six mile bottom on a place of George Clark's.

Q Then Joe never moved his family down here in 1866? No sir.

Q And if any of these witnesses testify to that effect they testify to what was not true? A I don't know what they testify.

He didn't move until I moved there in Saline District to my house.

Q When did you move to your house? A He moved to my house.

Q When did you move to your house? A February first.

Q Of 1867? A Yes sir.

Q How long had you been over there before he came back? A I had been there about two months.

Q Then it was about two months after you moved over to your house before Joe Lynch brought his family? A Yes sir.

Q And you moved over there the first of February, 1867? A Yes sir.
Q Joe's first wife was related to you wasn't she? A He never had but one.
Q Was that wife related to Joe? A Joe's sister.
Q Why didn't you testify for Joe in this case up at Vinita? A He didn't want me, didn't call on me

Q Did you ever testify for him before? A No sir.
Q You never testified for him before the Kern-Clifton roll? A No sir.
Q Nor before the Wallace court? A No, sir.
Q Where did you make a crop in the year 1866? A Up on Cabin Creek.
Q On which side of Grand River? A On the west side.
Q When did you move there? A In the summer.
Q Summer of 1866? A Yes sir.
Q Then where did you go? A I come down there close to the old Military Road at Mrs. Kell's old place.
Q Then where? A To the six mile bottom where George Clark let me have a place.
Q What time did you move? A In the fall.
Q Of 1866? A Yes sir.
Q What year is this? A I don't know.
Q What year was it that Wallace made his roll of Freedmen? A I don't know, I can't keep no time of anything that way.
Q What year did Kern-Clifton make a roll? A I don't know.
Q Don't know any of these years? A No sir.
Q What kind of a team was Joe driving when he come down to your place? A An old sorrel mare and one bay.
Q What road did he come in coming to your place? A All roads, he started from Sulphur Springs and come right down over the mountain that is as far as I can tell you he come.
Q What Sulphur Springs was that? A The Bob Daniels old place.
Q On which side of the river was Bob Daniels' place? A West side.
Q Did he come by Watt West's place? A No, sir.
Q How far did Watt West live from the road? A He did live on the side of the road when he come there.
Q Where did Joe Lynch settle when he first come to your house in '67 with his family? A Right where he is now.
Q That is the first place he ever settled? A Yes sir.
Q And he has been living right there ever since? A Yes sir.
Q How long did he stay at your house before he went and settled this place where he resides now? A He stayed there about two months I guess to the best of my knowledge.
Q Then he settled this place in the early summer? A No sir.
Q Or spring? A No sir, it was too late to make a crop.
Q Then he come down there too late in the spring of '67 to make a crop? A He worked at my place a little.
Q And went from your place to where he lives now? A Yes sir.
Q Built him a house? A Yes sir.
Q Did nobody come with him besides his family? A I don't recollect now.
Q What is his eldest child's name? A Hester.
Q And she was with him? A Yes sir.
Q Didn't have any other children at that time? A No sir.
Q You say you don't remember any other colored people coming with him? A No, sir, it has been so long I don't recollect.
Q You used to have his sister for your wife? A I have got her yet when I am at home.

BY MR McREIA:

Q Did you ever vote in the Cherokee Nation? A Might near every election.

Q Have you voted in the Cherokee Nation since the time you were convicted of this offense of which Mr. Hastings speaks? A Yes sir every time since never voted when I was a slave, voted since.
Q You have enjoyed all the rights and privileges of a Cherokee citizen every time since 1866, have you? A Yes sir.
Q You speak of living on a place that you got from Mr. George Clark in 1866? A Yes sir.
Q He recollects that does he not? A I guess so.
Q How far do you live from that place that you rented from Mr. Clark with reference to the place you live on now? A About two and a half miles.

BY THE COMMISSION:

Q Where did you go during the war? A Kansas.
Q And when was it you returned to the Cherokee Nation? A February 1866.
Q That is when you came there, February, 1866? A Yes sir.
Q How long had you been here did you say, until you saw Joe Lynch?
A He come in the fall after I come here, yes sir, horse back.
Q Was it cold weather then? A No sir, not right cold, it was in the fall.
Q He come to your place? A Yes sir come to Mr. Park's place where I was living.
Q How long did he remain there Mr. Lynch? A Until spring.
Q I am talking about him? A He stayed there about three days.
Q Just on a visit? A He come down to look out a location.
Q And then where did he go if you know? A He went back to Kansas, said he was.
Q Did you first move from the George Clark place about the first day of February? A Yes sir.
Q And you answered Mr. Hastings that you had been there about two months did you not when you saw Joe Lynch? A When he come back from Kansas I was living at George Clark's place.
Q And the next time where were you living? A Where I live now.
Q How long had you been there when you saw Joe Lynch the second time? A Two or three months.
Q When did you go to where you are living now? A February I moved over there the first of the spring.
Q February, 1867? A Yes sir.
Q That is the story you want to tell the Commission is it? A That is what I have told.
Q I have not mislead you have I? A No sir I guess not.
Q You want to tell the Commission that you moved over to where you are living now about the first of February, and you had been living there about two or three months when you saw Joe Lynch and his family? A Yes sir when they moved down.
Q When he come to where you are now living in the spring of 1867 who did he have with him? A His wife.
Q Who else? A His child.
Q Wife and one child? A Yes sir.
Q That is the child wester? A Yes sir.
Q So far as you know Hester and her mother had not been in the Cherokee Nation after they had left during the rebellion until you saw them where you now live? A That is right so far as I know.
Q How was it that Joe Lynch came down and picked out a place?
A That is what he said.
Q Did he make any improvements or locate him a claim so far as you know? A Yes sir right where he lives.

Q Did he improve it? A Put some logs around it, made a foundation of logs around it.

Q Did he do that in three days time? A Yes sir I went and helped him.

Q Was that on the prairie? A Yes sir.

Q Was there any timber close there? A Yes sir right south of it.

BY MR MORRIS:

Q Do you remember that you stated in your examination in chief, when I asked you the question, when was the first time that you saw Joe Lynch in the Cherokee Nation, your answer was in the fall of '66, is that correct? A Yes sir.

Q Then I asked you when was the next time you saw him, and your answer was about the first of February, 1867?

Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to the leading questions that are being asked by the Attorney for the Applicant.

Commission: Objection noted.

Q Did you make that statement? A Yes sir.

Q When was the first time you saw Joe Lynch in the Cherokee Nation after the war? A Fall of '66.

Q How long did he remain in the Cherokee Nation at that time?

A About three days at my place.

Q Did you have any conversation with him? A I talked with him all the time he stayed there.

Q What did he say if anything with reference to coming back to establish his citizenship in the Cherokee Nation? A Said he come back home to located out a place.

Q Did he locate a place at that time? A Yes sir.

Q Do you know where? A Yes sir.

Q Is it the present place he lives on? A Yes sir.

Q When was the next time you saw him in the Cherokee Nation after the war? A In the spring, I don't know just what dates.

Q Where were you living when he returned to the Cherokee Nation the second time? A Right where I live now.

Q How long had you been living where you live now before Joe came back? A Not long, just a little while.

Q Did he bring his family with him at that time? A Yes sir.

Q Do you know what month it was that he brought his family to where you now live? A I don't know exactly.

Q How long did he stay with you at that time? A He stayed until he built him a cabin, there where he lives now.

Q That was in '67? A Yes sir.

BY MR HASTINGS:

Q You say that was about two or three months after you moved there from the George Clark place? A He stayed there two or three months with me.

BY MR. MORRIS:

Q It was two or three months before he moved to where he lives now? A Yes sir.

Q And you stated that you hadn't been where you live now very long until he come there? A Yes sir.

BY MR. HASTINGS:

Q You have testified that you moved over to this place from the George Clark place about sometime in February, 1867? A Yes sir.

Q You have testified that you were over there about two or three months when Joe Lynch came back the second time with his family?

Q Yes sir I was.

BY MR. BELL:

Q Was not there no other colored people living around there?

A Crap and Art.

Q Did they come to see Buzzard? A Yes sir they lived at the old bosses place, got it from Lon Lynch.

BY MR. HASTINGS:

Q You are positive that this child Hester was born in Kansas, and that they brought it down here with them? A Yes sir.

Q About how old was Hester when they come down? A I don't know.

Q About how old? A I can't tell she was a child.

Q Running around, walking and talking? A Sucking I believe.

Q Was she a year old? A I can't tell how old she was, I don't know that.

LEWIS LYNCH, being first duly sworn, testified as follows:

BY MR. MORRIS:

Q What is your name? A Lewis Lynch.

Q What is your age? A Near about 50/

Q What is your postoffice address? A Spavinaw.

Q Are you a recognized citizen of the Cherokee Nation? A Claim to be, yes sir.

Q Is your name on the authenticated roll of 1860? A Yes sir.

Q Are you acquainted with Joe Lynch? A Know him by the name of Joe Buzzard, yes sir.

Q He is the same person present and an applicant for citizenship in the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life.

Q Did he belong to a citizen of Cherokee blood of the Cherokee Nation before the war? A Yes sir.

Q To whom did he belong? A To Joe Lynch.

Q Did he go out of the Cherokee Nation during the war of the rebellion? A Yes sir.

Q Do you know to where he went? A To Kansas.

Q Do you know when he returned back to the Cherokee Nation with reference to the treaty? A They said it was 1866, I was quite a boy and didn't keep records of the dates.

Q Did you see him in the Cherokee Nation after the war? A Yes sir.

Q What time after the war? A It was along in the winter.

Q Of what year do you remember? A They say it was '66, I kept no record of the dates at all.

Q Where did you see him in the Cherokee Nation? A At my father's

Q Who was your father? A Simon Lynch.

Q The gentleman who has just testified? A Yes sir.

Q Were you present when Joe Lynch came to your father's house?

A Yes sir.

Q How did he come? A Horse back.

Q How long did he remain at your father's house? A Two or three days not longer.

Q Did he say anything with reference to coming down for the purpose of establishing his citizenship of the Cherokee Nation at that time? A I didn't hear him at that time.

Q Where did he go to after he left your father's house at that time? A The old folks said he went back to Kansas.

Q Did you see him in the Cherokee Nation after that? A Yes sir.

Q About how long after the first time you saw him? A It was along in the spring the next time.

Q Of the next year? A Yes sir.

Q Where did you see him then? A In Saline District.

Q At what place? A At my father's where we lived, we had moved out of Delaware District into Saline District.

Q Did he bring any one besides himself at that time? A He brought his family.

Q How many persons did it consist of at that time? A Two to my best knowledge, they were his wife and daughter.

Q Was it his present wife? A Yes sir.

Q Do you know the name of the daughter? A Hester.

Q Hester who? A Hester Foster now.

Q Did he at that time begin making preparation for a permanent location in the Cherokee Nation? A Yes sir the last time he came he did.

Q Where did he make that location? A In Delaware District.

Q The place where he now lives? A Yes sir.

Q And that was in the spring you say of '69? A Yes sir to the best of my knowledge, I don't know anything about the dates, but it was the next spring after I saw him first.

Q Where did he make his home while making preparation for the place? A With my father and mother.

Q How long did he stay there? A I disremember just how long.

Q But you do know that he moved from your father's place over to the place where he now lives? A Yes sir.

Q Have you known him to be continuously in the Cherokee Nation ever since that time? A Yes sir.

Q You are close neighbors are you not? A About two and a half miles.

BY MR. HASTINGS:

Q Joe Lynch, the applicant, is an uncle of yours is he not? A Yes sir.

Q You never took the stand to testify for him before have you? A No sir.

Q You don't know very much about this you saw? A No sir.

Q You only know the dates they told you they were, that is all you are attempting to testify to? A Yes sir.

Q You know what date Mr. Wallace made a roll of Cherokee Freedmen? A No, sir.

Q Do you know when that big freedman payment was made? A Which one.

Q The last one? A No sir, I don't.

Q You don't know when Kern-Clifton made a roll? A No sir.

Q What year were you married? A I don't know that.

Q Are you a married man? A Yes sir.

Q Got some children? A Yes sir.

Q What is the date of the birth of the first one, what year? A I don't know.

Q You don't know no years do you? A No sir not particularly.

Q You and your father and the attorney for the applicant talked over this case to what you were going to testify to? A No sir.

Q Never mentioned it? A No sir.

Q Never said anything to Mr. McRea outside? A No sir.
Q He never talked to you about what you knew about the case?
A Yes sir, but not on the outside.
Q Inside of the room then? A Yes sir, outside is outside and inside is inside.
Q He went over it with you and your father? A Yes sir.
Q And your father told you about what he knew about it in your presence and you testified to the same thing? A No sir, I didn't.
Q You don't know the year do you? A Which year.
Q When you first saw Joe Lynch? A No sir, they claim it was in 1864.
Q They claim it and that is all you knew about it isn't it?
A Yes sir.
Q Where was you born? A In the Cherokee Nation.
Q Where was you living when Joe Lynch moved his family down there?
A In Saline District.
Q On whose place? A Simon Lynch's place.
Q Same place you are living now? A Same place he is living.
Q He was living right there when he moved his family down where he is living now? A Yes sir.
Q Are you sure he had one child? A That is all I remember.
Q You remember that one? A Yes sir.
Q If Joe Lynch swears that he didn't have that child, he is mistaken isn't he? A I suppose he is.
Q Do you know he is? A Yes sir if he swears that he didn't have it when he come.
Q About how old was Hester when they moved there? A I don't know.
Q You remember they had a child, how big was it? A A good big child, large enough to be walking.
Q Walking? A Walking, yes sir.
Q Talking? A I don't know about that.
Q Did he come the next time in a wagon? A Yes sir.
Q Do you remember what kind of horses he had? A No sir.
Q They didn't tell you yesterday about that sorrel team? A No sir.
Q Didn't you hear your father say that? A No sir.
Q Your father told you yesterday that he had moved from one place to another? A No sir.
Q Didn't tell you that? A No sir, I know that.
Q But you don't know what year you moved? A No sir.
Q You don't know anything about the years? A No sir.
Q You don't know a single year in which a single one of your children were born, do you? A Yes sir.
Q What year was the first one born? A I couldn't say exactly.
Q Then you don't know do you? A No I don't know that I could positively say now.
Q You don't know what year only what they said when Joe Lynch come back do you? A No sir.
Q You don't know what year you moved to the place where your father lives now, only what you were told? A No sir.
Q How long had you been living there when Joe came back? A Not quite a year we moved there in the winter and the next spring I saw Joe Lynch.
Q Simon had been living where he lives now for about a year when Joe came back? A No sir not a year.
Q About how long? A Moved over in the winter and I saw Joe the following spring.
Q How long had your father been living there when Joe brought his family? A Might have been three or four months.
Q Is that your best judgment? A Yes sir.

Q Had you put in corn? A No sir.
 Q Fixing to put in corn? A Yes sir.
 Q Do you know what month your father moved there? A No sir.
 Q You don't know what year? A No sir.
 Q What year is this? A I don't know exactly.
 Q You don't know what year you were born in do you? A No sir.
 Q How many children have you? A Three.
 Q What year was the second one born in? A I don't know.

W. A. WEST being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

Q What is your name? A W. A. West.
 Q What is your age? A 63.
 Q What is your postoffice address? A Spavinsaw.
 Q Are you a Cherokee citizen by blood? A Yes sir.
 Q Have you always lived, with the exception of the war, in the Cherokee Nation? A Yes sir.
 Q Is that in Salige District? A Yes sir.
 Q Were you in the army during the war? A Yes sir.
 Q Where did you settle first after the war? A My permanent house was on the road there, on the Military road north of Grand River there where I lived.
 Q When did you settle there? A About 1867, commenced it in '67, and finished it that winter, I commenced in the summer like getting out the lumber.
 Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
 Q Do you know where he now lives? A Yes sir, I presume I do, at the same place where he has lived, I haven't been at his house lately.
 Q You have been at his house? A Yes sir, I have been there often.
 Q It is claimed that he lives at the same place? A Yes sir.
 Q How far is that from where you formerly lived? A It is about two and a half miles or three miles, somewhere along there, I always called it about two miles.
 Q I will ask you if you know him when he lived there that near you? A Yes sir.
 Q When did he first come back to the Cherokee Nation after the war? A To the best of my recollection he came back in 1868.
 Q Were you living at this place you had made? A Yes sir.
 Q And you commenced that in 1867? A Yes sir.
 Q What time in '67 did you commence that place? A I commenced getting out the lumber along in the spring and summer and I lived in a tent on the same road about a quarter from that place.
 Q Were you living in the house when you saw this applicant? A Yes sir.
 Q Where was he going? A He said he was going from Kansas, coming there to make a home in the Cherokee Nation and he inquired at my house where Simon Lynch lived?
 Q Did you direct him to where Simon Lynch lived? A Yes sir, I told him Simon Lynch lived about the river somewhere about the old Lynch farm.
 Q Was Joe Lynch in a wagon? A Yes sir.
 Q Did he have the members of his family with him? A He had his wife and one child, as well as I remember.
 Q Do you remember what kind of a team he had? A He had just a common pony team.

Q Was your house on this old Military Road? A Yes sir right along the edge of the road.

Q When did you get that house completed, was you moved into it?

A I moved into it in the fall of 1867.

Q And it was not until after that time that he come along in a wagon inquiring for Simon Lynch? A No sir in 1868.

Q You think it was the next year? A Yes sir the next year, and may be the following.

Q And it couldn't have been earlier than 1868? A No sir, nor later '68 is the year as well as I remember.

Q Was any one else along with him in the wagon besides his family.

A No sir.

Q He said he was from Kansas, did he? A Yes sir.

Q And he was inquiring the way to Simon Lynch's? A Yes sir.

Q He didn't know then at that time where Simon lived? A No sir. I reckon not by his inquiring.

Q This same Simon that you have seen here as a witness in this case? A Yes sir the same Simon.

BY MR. McKEA:

Q You have testified in this case once before haven't you?

A Yes sir.

Q And you haven't any improvement to make by way of testimony on what you have already testified to? A No not that I know of.

Q Do you know where Simon Lynch was living in 1866? A Across the river.

Q He was in the Cherokee Nation in 1866 was he? A Yes sir.

BY MR. HASTINGS:

Q Do you know of Simon Lynch's having been convicted of stealing hogs? A I have heard he was convicted.

Q In the Cherokee Courts? A Yes sir.

Q Sent to the Cherokee penitentiary? A Yes sir.

JOE L. THOMPSON being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. HASTINGS:

Q What is your name? A Joe L. Thompson.

Q What is your age? A 66

Q What is your postoffice address? A Vinita.

Q Are you a Cherokee citizen by blood? A Yes sir.

Q Where do you live, you don't live in the town of Vinita do you? A 12 miles south of Vinita.

Q How far from Grand River? A About three miles.

Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.

Q Did you remain in the Cherokee Nation during the war? A No sir.

Q Where did you go, south? A Went to Texas.

Q What year did you return after the war? A I came back in the winter of '67, I came to Fort Gibson.

Q When did you land up there near where you live on Grand River?

A In the spring of '66 I come to the place where I now live and made a crop, in the spring of '69 I moved on the Arsana place.

Q Do you know where the applicant, Joe Lynch, now lives? A Yes sir.

Q How far does he live from you? A About three miles I guess.

Q Was he living there when you came back? A No sir, not to the best of my recollection.

Q Do you remember of his coming back there? A It was the best of my recollection, that he moved there to that place about 1869.

You say he wasn't living there when you returned? A No sir.

Q And you came back yourself in the early spring of 1868? A Yes sir.

Q Was he living there when you come back in 1868? A If he was I didn't know it.

Q What is your best judgement? A He was not living where he is now.

Q It is plain to him that he settled there the first place that he settled in the Cherokee Nation? A The best of my recollection is he never moved to the place where he lives until 1869.

Q Was that the first you saw of him in the Cherokee Nation after the war? A Yes sir.

Q Did you know him before the war? A Yes sir.

Q Did you know his owner? A Yes sir his owner was my uncle.

Q Where was you living in 1869 when you first saw this applicant?

A On what was called the Arsena Place.

Q How far from Simon Lynch's? A About four or five miles the way you have to go I reckon.

Q You feel positive that this applicant was not there when you first came back in 1868? A No sir there was no improvements there when I come back in 1868.

Q Do you know Simon Lynch? A Yes sir.

Q Do you know of his being convicted of stealings hogs in the Cherokee Nation? A No sir.

Q You have heard of it? A If I did, I don't remember it.

Q You lived there in Tahlequah District? A Yes sir.

BY MR. McKEA:

Q I understood you state that you did not return to the Cherokee Nation until sometime in 1867 is that right. A Yes sir.

Q Where were you in '66? A I guess I was in Texas.

Q If Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866 and his testimony is born out by Ed Lynch and Simon Lynch, are you prepared to say that it is not true? A I havn' said so.

Q You would not say so would you? A I was not here in 1866.

Q You have testified in this case before, havn't you? A I don't know, I guess so.

Q And you are not now prepared to add nor detract anything from the statements you first made in the case, at this time are you? A No sir, I don't know that I am.

G. W. CLARK being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

Q What is your name? A G. W. Clark.

Q What is your postoffice address? A Vinita.

Q Are you a Cherokee citizen by blood? A Yes sir.

Q Were you in the Union army during the war? A Yes sir, I served nearly three years in the army.

Q When was you married? A I was married on the 8th of June, 1865.

Q Just after the war? A Yes sir, eight days after I was mustered out of the service.

Q Where did you first settle down after the war? A Upon the river in the neighborhood of where I live now.

Q Up in the north end of Saline? A Yes sir, it was Saline then but it is in Cooweescoowee now I think.

Q That was just across the river from the north end of Saline?
A Yes sir, I lived on the west side of the river, I made a crop there in '66.
Q Where did you make a crop in '67? A I moved in the fall of '65 along in December to another place about ten or twelve miles from there, the place where I was, to a place in Delaware District known as six mile bottom.
Q Near the old Joe Lynch place? A Yes sir.
Q On which side of the river? A On the same side, west side.
Q That was in the fall of '67? A No sir, fall of '66.
Q Where did you live in the year of 1867? A I lived there four or five years.
Q Continuously? A Yes sir.
Q Did you know the applicant, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Did you know him before the war? A I saw him but I don't say that I was acquainted with him.
Q You knew his owners? A Yes sir I knew old Uncle Joe Lynch.
Q Was he a relative of yours? A No sir.
Q Do you know where this applicant now lives? A Yes sir, I am well acquainted with the place, about two to two and a half miles from where I lived four or five years ago.
Q You moved up there in the fall of '66? A Yes sir.
Q And you lived there four or five years? A Yes sir, may be six.
Q When did he move back to this place after the war? A The first I recollect of seeing him I seen him at old man Simon's place old man Simon in the fall of '66 lived on my place in this six mile bottom, after I moved there I let him have some house and lived there that winter and early in the spring of '67 he moved to what is known as the old Joe Lynch bottom.
Q You mean Simon? A Yes sir, I loaned him a yoke of steers to do the breaking he did there.
Q How long was it after you moved to this place before you saw Joe Lynch at Simon's? A I didn't see him there for a couple of years.
Q How long was it after you moved to this place where you moved in '66 before Joe Lynch came there and make this improvement?
A My recollection is that he didn't make this improvement the first year after I come there.
Q You think the first time you saw Joe was at Simon's? A That is the first time I saw him.
Q Where was Simon living then? A Where I located him on the east side of the river.
Q That was on your place? A No sir.
Q And you think that was to your best judgement, 1868? A It was 1868 or '69.
Q And you owned the place where Joe Lynch afterwards built? A Yes sir.
Q Were you acquainted with the country before he built there?
A Yes sir, that was on the road there where I did the most of my passing.
Q Did you travel the road frequently? A Yes sir.
Q About how far did Joe Lynch the applicant located from this road? A He located on a little ridge about 150 or 200 yards from the road, it may have been more or less.
Q The place could be seen easily from the road could it? A Yes sir.
Q Nothing in the way? A He built his house there on the prairie
Q You knew Simon Lynch who has testified in this case? A Yes sir, I am well acquainted with him.

Q De you know of his having been convicted up there in the Cherokee courts for stealing hogs? A I had moved away from there then, but I heard of it.

Mr McRea: We object to heresay.

Commission: Objection noted.

Q It was the common report was it? A He was convicted no common report about it.

Q What official positions have you held, you have been a member of the Cherokee Senate and Cherokee Council a number of times?

A Yes sir I was in office sixteen years, I have----

Q Also on the circuit bench? A Yes sir, eight years.

Q Solicitor of Saline District? A Two years.

Q And you were in the Union Army? A Yes sir, in the third regiment.

Q And your best judgement is that Joe Lynch came back in '68 or '69? A That is when I saw him.

Q And you were living there in that same neighborhood, and he located out there on a little prairie near the road that led to the store at which you traded, and where there was a black smith shop? A It was a big prairie, three or four miles across the neck of it, it reaches from there I expect to Chetopa. From my place back there is a woodland hilly place until you get down to where the house was, and there was a little prairie there where I lived but he lived on the main big prairie.

BY MR. KELL:

Q The place that you stayed up there in six mile bottom, was that that Dirteater place? A It was known as the Jim Daniel's place before the war, I bought it from the estate.

Q How is that six mile bottom situated with reference to the river. A The river bends around it.

Q The river is on three sides of it? A Yes sir.

Q Now in getting from your house to this store you speak about, there was only one road? A Yes sir just one road.

Q There would have been no way of getting to your store by a road except by taking another road that didn't go in that direction.

A No sir it went north.

Q But you went west from your house to the store? A Yes sir. Nearly due west according to the section road.

Q That was the only road with a direct route to the store? Yes sir.

Q That road passes then 150 or 200 yards of the place that Joe Lynch built? A Yes sir, and I think he is living there yet.

Q The McGrary store was at the Kell place? A Yes sir.

Q It was the only trading point in that immediate neighborhood?

A Yes sir, the only one anywhere around there.

Q If Buzzard had this house built there in '67, you think you would have seen it? A I know I would because there was a little circumstance there, me and Walker Daniels got after a bull right there where he built that house, and right over the swag there there in running him up there, he runed past him and the bull killed his horse or mare, hooked his insides out.

Q That was in '67? A Yes sir.

Q There was no house there then? A No sir the first that was built was built this side of there. That was before he put that up on the left hand side of the road as you went, a colored fellow fellow by the name of Bony Daniels, and the next was the house that Joe Lives in.

Q Then there was no other houses therein that country right then? A No sir, no other house, I made a claim right across the next ridge and I let Andy Frye have that.

Q Nobody living in there? A No sir.

Q Indians or nobody else? A Nobody at all.

Q And it was in '68 or '69 before you discovered Buzzard there in this house? A My opinion is he didn't build a house there in '69, and he stayed a year in the bottom before he built a house.

BY MR. McRea:

Q When was the first time that you saw Joe Lynch in the Cherokee Nation after the war? A It was over at Simon's in '68 or '69, I think '69.

Q You are not positive as to which? A No sir.

Q Now where was he when you saw him at that time? A He was in and around Uncle Simon's there on the place, he came in there with a pony team, and had a wife and child.

Q Were you present when he came? A No sir.

Q That was what you heard? A There wasn't but a few people there and when a man dropped in the neighborhood we knew he was a stranger, it wasn't settled like it was now, wasn't many people in the country.

Q Where was you living in the fall of '66? A I moved on this place that we were above referring to in that bottom east of where Joe Lynch built his house.

Q How far with reference to where Simon Lynch lived at that time in '66 on your place? A There were two houses on the place he occupied, one of the houses from the house I lived right across the hill north, I expect it was 150 or 200 yards, one of the houses that he was in, that he kept one of his wives in. He kept another house, I will tell you about that. It was about a quarter of a mile south of the place and he kept his other wife there.

Q Are you prepared to dispute the statement made by Simon Lynch and Joe Lynch, that Joe Lynch came to Simon Lynch's place where he was living in the fall of '66 on horse back? A If he did I didn't see him.

Q He come have come through without your having seen him, couldn't he? A I guess he could have without my seeing him, by coming in the night and going away.

Q Answer yes or no? A He could have come, but I never seen him.

Q I understood you to say in your examination in chief that you had no special acquaintance with Joe Lynch before the war?

A No sir, that is right.

Q Then the first time that you ever seen him to know him was sometime in the year 1868 or '69, is that correct? A Yes sir.

Q He could have been in and around Simon's at the time he said without your knowing him in view of the fact that you had no acquaintance with him? A He couldn't have been around there very much because I watched everybody pretty close them times.

Q Sometimes? A All the time.

Q You had no acquaintance with his family? A No sir, the first time I saw his wife she was at Simon's and had a child, and then they had one regular every year.

Q You never testified before in this case? A No sir.

Q You knew all about the facts that you are testifying to now in 1901 and 1902, didn't you? A Yes sir, of course I would have, I come acquainted with them in '67 and '68.

Q You knew these facts at the time the applicant made his application for enrollment? A Yes sir.

Q And you were not called upon at that time to testify? A No/sir.

Q When was the first time that your attention was called to the fact that you would be required to testify in this case, Mr. Clark? A I don't know, think it has been more than three or four weeks ago that I received a notice from the Commission that I was summons here in this case, and it read like I had testified in the case. I was very well acquainted with this fellow. He was hard up and we furnished him milk all of the time, my wife and I, and she knew him better than I did, he carried milk from our house all the time, we treated him as well as we could.

Q Do you know how long Joe had been at Simon Lynch's at the time you first saw him in '68 or '69? A No sir, I couldn't say the exact time, might have been a week or two maybe longer.

BY MR. HASTINGS:

Q I believe you stated that you people sort of kept a watch on the people who came into the country immediately after the war?

A Yes sir.

Q It was necessary in those days, was it not? A Yes sir, very necessary.

Q And for that reason you knew about everybody that came around in your neighborhood? A Yes sir, I watched everybody.

Q You knew when you first saw Joe Lynch over at Simon's that he was a newcomer? A Yes sir, there was but a few of us and we knew when a new man came there.

BY MR. MOREA:

Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866, are you prepared to state upon your own knowledge that he didn't return up there up there at that time?

A No he didn't return up there, I aint prepared to say in the fall whether he returned there or not.

Q You don't know whether he did or not? A No sir.

BY MR. HASTINGS:

Q You know you never heard of him returning there in the fall of 1866? A No sir.

BY MR. MOREA:

Objected to for the reason that it is incompetent, irrelevant and inadmissible.

COMMISSION: Objection noted.

BY THE COMMISSION:

Q When did you first come up to that neighborhood where you are living now and where Joe Lynch lives now? A I aint living there now.

Q You went there after the war? A I went there several times in the summer, I think I traded for the place along in August, during the summer of '67. Summer of '66 after this Treaty was made on the 19th of July, 1866.

Q You moved up there close to where Joe Lynch now lives in December, 1867? A '66.

Q December, 1866? A Yes sir.

Q You knew Mr. Clark where Simon Lynch was living when you moved up there, did you? A Yes sir, I let him move over there on my place, after I got it.

Q From your knowledge of the people and condition as they were and the nature of the country, can you state to this Commission positively that Joe Lynch and his family did not come to that neighborhood in the Cherokee Nation until about 1866? A 1863 or '69.

Q If at any time after December, 1866, the applicant and his family had come to that portion of the Cherokee Nation, you think you would have known it? A Yes sir, known it after a day.

Q You don't know as to whether or not Joe Lynch himself might not have been at Simon Lynch's horse back in the fall of '66 and stayed three days as they claim? A Might have been at Simon's, but he wasn't living there in the fall, he was over at the other place about six miles from there, he might have been there. This road that I told you that runs to this trading point, he lived about a mile from that down in the bottom, right above where the Military road crossed Cabin Creek.

Q How far from where he lives now? A I suppose it is four or five miles on a direct line now since the lines were run out.

Q Did you ever have a conversation with Joe Lynch shortly after his first trip to the Cherokee Nation after the war? A No sir.

Q You never heard him say whether or not that was his first trip?

A I don't know as I ever did.

Q Do you know whether in the fall of 1866 that he made any foundation of a house? A He never made none there where he is living now.

Q How old was this child that Joe Lynch and his wife brought there with them? A It seemed to be his wife's lap.

Q A year old probably? A I don't think it was a year old, I don't think he let them get a year old before he had another one.

CASE CLOSED.

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H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct copy of his stenographic notes thereof.

H. M. Vance.

Subscribed and sworn to before me this 14 day of December, 1904.

(SEAL)

Charles H. Sawyer,
Notary Public.

Opal Briggs being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she made the above copy and that the same is a full, true and correct copy of the original transcript.

Opal Briggs

Subscribed and sworn to before me this 20th day of December, 1904.

Charles H. Sawyer
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al., for enrollment as Cherokee freedmen, consolidating the applications of:

Joe Lynch et al	Cherokee Freedmen D 376
Hester Foster et al	Cherokee Freedmen D 383
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Benton et al	Cherokee Freedmen D 387
Nancy Curls et al	Cherokee Freedmen D 429
Rachel Downing et al	Cherokee Freedmen D 430
Martha Lynch et al	Cherokee Freedmen D 1077

D E C I S I O N .

The record herein shows that applications for enrollment, as Cherokee freedmen, were made to this Commission by Joe Lynch for himself, his wife, Sophia Lynch, and minor children, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch; by Hester Foster for herself and minor children, James, Pearlle J., Ethel J. and Josephine Foster; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Arthur Foster; by Arthur Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curls for herself and minor child, Lula Buffington; by Walter Downing for himself and wife Rachel Downing; that subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission showing the birth of Hurbert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Martha Lynch for herself and minor children, Jessie M. and Lee B. Lynch.

The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1866 and are descendants of and, with the exception of Hurbert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of none of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Hurbert Downing was born April 26, 1902; that he is the son of Walter Downing who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored," and that the said Walter Downing, father of said Hurbert Downing, has continuously resided in the Cherokee Nation since 1880.

It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Hester Foster, James Foster, Pearlle J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Vina Benton, Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. Lynch and Lee B. Lynch, as Cherokee freedmen, should be denied under the provisions of section twenty-one of the act of Congress approved June 26, 1898 (30 Stats., 498); and it is further the opinion of this Commission that the said Herbert Downing should be enrolled as a Cherokee freedman, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Signed.	Tams Bixby,	Chairman.
Signed	T. B. Needles,	Commissioner.
Signed	C.R. Breckinridge,	Commissioner.
Signed	W. F. Stanley	Commissioner.

Muskogee, Indian Territory,
this Mar 5, 1904.

A.P.Mc.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Joe Lynch, et al., as Cherokee Freedmen, consolidating the ap-
plications of:

Joe Lynch et al.	Cherokee Freedmen	D	376
Robert Foster,	"	D	522
Hester Foster et al.,	"	D	383
Arthur Lynch	"	D	384
Cyrus Lynch	"	D	385
John Lynch	"	D	386
Vina Benton et al.,	"	D	387
Nancy Curls et al.,	"	D	429
Rachel Downing et al.,	"	D	430
Martha Lynch et al.,	"	D	1077.

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D E C I S I O N.

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Joe Lynch for himself and wife, Sophia Lynch, and minor children, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle J. (Jane), Ethel J. (Jane) and Josephine Foster; thereafter, on October 30, 1902, there was filed with this Commission an affidavit showing the birth, on March 28, 1902, of Arthur Foster, child of the applicant, Hester Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curls for herself and illegitimate minor child, Lula Buffington; by Walter Downing for himself, and wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; thereafter, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 26, 1902, of Herbert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Leo B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Leo B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Hurbert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 18, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Leo B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said applicants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Hurbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, John and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curle and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedman enrollment cards No. D 429 and D 1077, it appears that one John Buffington is the father of the said applicant, Lula Buffington, and that one Watson Wicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Leo B. (Bennett) Lynch. But one John Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 558-R 271), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Wicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04) Minnie Duncan, et al. (I.T.D. 1470-04), Samantha Chambers (I.T. D 2296-04), Ed Williams (I.T.D. 4230-04), Martha Albert, et al. (I.T.D. 4732-04) and Moses Ross (I.T.D. 6056-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Hester Foster, James Foster, Pearlle J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and John Lynch, Vina Benton and Stella Benton, Nancy Curls, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Leo B. (Bennett) Lynch, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the Act of Congress below noted; and that Herbert Downing should be enrolled as a Cherokee freedman, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby
Chairman

(Signed) T.B. Needles
Commissioner

(Signed) C.R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this JUN 16 1905

9.7m9

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Joe Lynch, et al., as Cherokee Freedmen, consolidating the appli-
cations of:

Joe Lynch et al.	Cherokee Freedmen D	376
Robert Foster,	" "	D 382
Hester Foster et al.,	" "	D 383
Arthur Lynch,	" "	D 384
Cyrus Lynch	" "	D 385
John Lynch	" "	D 386
Vina Benton et al.,	" "	D 387
Nancy Curle et al.,	" "	D 429
Rachel Downing et al.,	" "	D 430
Martha Lynch et al.,	" "	D 1077.

-1-

D E C I S I O N .

The record in this case shows that applications for en-
rollment as Cherokee freedmen were made to this Commission by
Joe Lynch for himself and wife, Sophia Lynch, and minor children,
Elisa, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch; by
Robert Foster for himself; by Hester Foster for herself and minor
children, James, Pearlle J. (Jane), Nichol J. (Jane) and Josephine
Foster; thereafter, on October 30, 1908, there was filed with
this Commission an affidavit showing the birth, on March 28, 1908,
of Arthur Foster, child of the applicant, Hester Foster; by Ar-
thur Lynch for himself; by Cyrus Lynch for himself; by John Lynch
for himself; by David Benton for his wife, Vina Benton, and minor
child, Stella Benton; by Nancy Curle for herself and illegitimate
minor child, Lula Buffington; by Walter Downing for himself, and

wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; there-after, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 26, 1902, of Herbert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Leo B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Leo B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Herbert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 18, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitnire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Leo B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said appli-

cants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Hurbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, John and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curle and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedman enrollment cards No. D 429 and D 1077, it appears that one John Buffington is the father of the said applicant, Lula Buffington, and that one Watson Hicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Lee B. (Bennett) Lynch. But one John Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 568-R 871), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Hicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04) Minnie Duncan, et al. (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Martha Albert, et al. (I.T.D. 4732-04) and Moses Ross (I.T.D. 6056-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Hester Foster, James Foster, Pearlle J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and John Lynch, Vina Benton and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Lee B. (Bennett) Lynch, as Cherokee freedmen should be denied, under the provisions of section twenty-one of

the Act of Congress below noted, and that Herbert Downing should be enrolled as a Cherokee Freedman, in accordance with the provisions of section twenty-one of the Act of Congress approved June 20, 1896 (29 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

Tama Blay

Chairman

(SIGNED)

T. B. Needles

Commissioner

(SIGNED)

C. R. Breckinridge

Commissioner

Dated at Muskogee, Indian Territory,

this

JUN 16 1905

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al., for
enrollment as Cherokee Freedmen, consolidating the applications of:

Joe Lynch et al.	Cherokee Freedmen D 376
Hester Foster et al.	Cherokee Freedmen D 382
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Benton et al.	Cherokee Freedmen D 387
Nancy Curls et al.	Cherokee Freedmen D 429
Rachel Downing et al.	Cherokee Freedmen D 450
Martha Lynch et al.	Cherokee Freedmen D 1077.

D E C I S I O N.

The record herein shows that applications for enrollment, as Cherokee Freedmen, were made to this Commission by Joe Lynch, for himself, his wife, Sophia Lynch, and minor children, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch; by Hester Foster, for herself and minor children, James, Pearlle J., Ethel J. and Josephine Foster; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Arthur Foster; by Arthur Lynch, for himself; by John Lynch, for himself; by David Benton, for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curls, for herself and minor child, Lula Buffington; by Walter Downing, for himself and wife, Rachel Downing; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Herbert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Martha Lynch, for herself and minor children, Jessie M. and Lee B. Lynch.


The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that, during said rebellion, they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc. vs Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1866 and are descendants of and, with the exception of Herbert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of none of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Herbert Downing was born April 26, 1902; that he is the son of Walter Downing, who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored", and that the said Walter Downing, father of said Herbert Downing, has continuously resided in the Cherokee Nation since 1880.

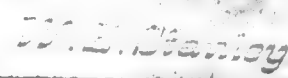
It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia S. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Welter Foster, James Foster, Pearl J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Vine Benton, Stella Benton, Nancy Curls, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. Lynch and Lee B. Lynch, as Cherokee Freedmen, should be denied under the provisions of Section Twenty-one of the Act of Congress approved June 26, 1896 (30 Stats., 495); and it is further the opinion of this Commission that the said Herbert Downing should be enrolled as a Cherokee Freedman, in accordance with the provisions of said Section Twenty-one of the Act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


Chairman.


Commissioner.


Commissioner.


Commissioner.

Muskogee, Indian Territory,

this APR 30 1904

MAR 15 1904

AFFIDAVIT.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } ss
NORTHERN DISTRICT.

In the matter of the application of Joe
Lynch for enrollment as a Cherokee Freedman.

No. F. D. 376

Henry Pack, of lawful age, being duly sworn on
oath states that on the 17th day of September, D., 1901, he registered
to Joe Lynch whose postoffice is Winita
Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto
attaches the receipt of the Postmaster at Fort Gibson Indian Territory;
and that on the 27th day of September, 1901, he received the return
card which is hereto attached, signed by the said Joe Lynch, showing
that he had received said notice.

Subscribed and sworn to before me on this the 20th day of Sept, D. 1901.

J. C. Starr
Notary Public.

72 376
72 376

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901.

Given under my hand this.....
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
..... day of....., 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A. D. 1901

Subscribed and sworn to before me
this..... day of..... A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FILED
SEP 24 1901

SEP 11 1901 ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Joe Lynch
for enrollment as a Cherokee Freedman:

Case No. F. D. 376

To Joe Lynch, Vinita, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct. 1st at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 11th day of Sept. 1901

L B Bell

Attorneys for the Cherokee Nation.

11/20/10

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Joe Lynch,
Vinita, I. T.
Cherokee F-D-328.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

73.

J.F. 376

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 21 1901

 ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

May 21- 1901

Post Office

Union L. S.
Del.

District

1. Name

Joe Lynch

Age 60

Owner's name

Joe Lynch

Citizenship

Cherokee

Year

Wallace

Page

123

No.

2554

District

Del.

Parents:

Father

Joe Lynch

Citizenship

Mother

Stephania Lynch

Citizenship

2. Name of wife

Stephania Lynch

Age 50+

Owner's name

Stephania Lynch

Citizenship

Year

Wallace

Page

123

No.

2555

District

Del.

Parents:

Father

Chancy Ross

Citizenship

Mother

Chancy Ross

Citizenship

Names of Children

1. Wm. Lynch	Year	Page	No.	Dist.	Del.
2. Olga	Year	Page	No.	Dist.	18"
3. Opetha J.	Year	Page	No.	Dist.	14"
4. Cardell	Year	Page	No.	Dist.	15"
5. Arth	Year	Page	No.	Dist.	13"
6. Jackson	Year	Page	No.	Dist.	11"
7. Wm. Ross	Year	Page	No.	Dist.	
8. Wm. Ross	Year	Page	No.	Dist.	
9. Wm. Ross	Year	Page	No.	Dist.	
10. Wm. Ross	Year	Page	No.	Dist.	
11. Wm. Ross	Year	Page	No.	Dist.	
12. Wm. Ross	Year	Page	No.	Dist.	

Application made by

Wm. 1- Joe Lynch

Stenographer

Osbert Ventlin

Wm. 1 on Wallace Roll and Joseph Lynch

Wm. 3, 4, 5, 6 and Wm. 7 of his roll
to be applied

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 29 1901

 ACTING CHAIRMAN

92376

86

COMMISSIONERS:
HENRY L. DAWES,
TANS DIXBY,
THOMAS B. NEEDLES,
C. R. BRACKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chelsea, Indian Territory, May 29th, 1901.

Received of the Commission to the Five Civilized Tribes
one copy of the original testimony in the matter of the application
of Joe Lynch et al for enrollment as Freedmen of the Cherokee
Nation.

A. S. M. Lea

Attorney for Applicants.

Cherokee F. #D376.

Muskogee,

Indian Territory, 12/4/1904

RECEIVED of the COMMISSION TO THE FIVE CIVILIZED TRIBES

one copy of the testimony in FD 376

Joe Lynch et al,

A. S. McRea

Attorney for Applicant.

COPY.

Cherokee Freedmen
D 376, et al.

Muskogee, Indian Territory, May 17, 1904.

A. S. McRae,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 384, 386, 387, 429 and 430, together with a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Arthur Lynch, John Lynch, Vina and Stella Benton, Nancy Gula, Lula Buffington and Rachel Downing, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 376 and 382.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. V-44
Register

Chairman.

COPY.

Cherokee Freedmen
D 376

Muskogee, Indian Territory, May 17, 1904.

Joe Lynch,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., rejecting, among others, your application for the enrollment of yourself, your wife, Sophia Lynch, and your minor children, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch, as Cherokee freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Tams Bixby.

Encl. V-35
Register

Chairman.

COPY

Cherokee Freedmen
B 276, et al

Muskogee, Indian Territory, May 17, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Joe Lynch, et al., including the Commission's decision dated April 20, 1904, granting the application for the enrollment of Hubert Downing as a Cherokee freedman and rejecting the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth, Jackson, Arthur and John Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Vina and Stella Denton, Nancy Gurls, Lula Buffington, Rachel Downing, and Martha, Jessie M. and Lee B. Lynch as Cherokee freedmen.

Respectfully,

Tamm Bixby.

Chairman.

Encl. V-45

Through the
Commissioner of Indian Affairs.

Refer in reply
to the following
Land.
53274-1904

(2 0 7 2)

C.F.L.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

GARY

July 15, 1904.

the Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized Tribes dated May 17, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Joe Lynch for himself, his wife Sophia Lynch and his five minor children, Eliza, Cynthia, J. Randolph, Ruth and Jackeen Lynch; of Hester Foster for herself and her four minor children, James, Pearlle, J., Ethel J., Josephine and Arthur Foster; of Arthur Lynch for himself; of David Benton for his wife, Vina Benton, and minor child, Stella Benton; of Nancy Curle for herself and her minor child, Lula Buffington; of Rachel Downing for herself and her minor child, Herbert Downing; and by Martha Lynch for herself and her minor children, Jessie M. and Leo B. Lynch.

March 5, 1904, the Commission decided that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that none of the applicants are identified on the 1880 authenticated Cherokee roll, but all who were then living are found on the roll of citizens of the Cherokee Nation;

that the applicants, Joe Lynch and his wife Sophia Lynch were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and returned prior to February 11, 1867, established a home and have resided in the Cherokee Nation to the date of the record. The other applicants are descendants of Joe and Sophia Lynch and their sole title to enrollment is derived from them. The only question in the case appears to be when Joe and Sophia Lynch returned to the Nation, and the testimony of Joe Lynch is sustained by that of Allen Lynch and Anderson Lynch, who swear that he returned prior to February 11, 1867.

On the part of the Cherokee Nation, C. L. Lynch testifies that he did not see the principal applicant, Joe Lynch, until 1901; Joseph L. Thompson that he did not see him until 1868; Walter A. West did not see him until 1868.

The witness, Rees Graven, introduced by the Cherokee Nation, swears that he knew Joe and his wife, Sophia Lynch in Iola, Kansas, from 1868 to 1874 or 5, and they had twenty-two children at that time. The testimony of this witness is not satisfactory and in pertinent particulars he appears uncertain.

It appears that the Cherokee Nation conceded from the testimony of their own witnesses that Joe Lynch was in the Nation in 1868 with his wife, Sophia and children, and as it is shown in evidence that Sophia was but seventeen years of age at that

date, the testimony of the witness, Graven, that she had twenty-two children at any time when he swears that he knew them, between 1866 and 1875, is a manifest falsehood.

In view of the record it is recommended that the Commission's decision adverse to the applicants be reversed, and the applicants enrolled as Cherokee freedmen.

Very respectfully,

A. C. Tanner

Acting Commissioner

M.M.N.

W.

3 encl.

D.O. 8881-1904.

J.N.
JMS

I.T.D. 8704-1904.

REPLY.

DEPARTMENT OF THE INTERIOR,

LMS

WASHINGTON

July 21, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

July 18, 1904, the Acting Commissioner of Indian Affairs submitted the Cherokee Freedmen case consolidating the applications of Joe Lynch, et al; Hester Foster, et al; Arthur Lynch; John Lynch; Vinn Benton, et al; Nancy Curtis, et al; Rachel Downing et al; and Martha Lynch, et al, and recommended that your decision adverse to the applicants be not concurred in and that you be directed to enroll such applicants.

Accompanying the papers is a motion for a rehearing, filed in the Indian Office by Joe Lynch for himself and the other applicants who claim through him, with letter from George P. Toole, of Vinita, Indian Territory, of June 8, 1904, which is not mentioned by the Acting Commissioner.

The Department does not feel warranted in reversing your decision upon the testimony presented.

The motion for rehearing shows no evidence of error upon the attorney for the Cherokee Nation, but in view of the showing made thereby, and particularly of the recommendation of the Indian Office, the Department deems it advisable to order a rehearing in the case, and the same is hereby directed.

-2-

A copy of the Acting Commissioner's letter, and the testimony with papers attached, also the application for rehearing with affidavits attached, are inclosed.

Respectfully,

(Signed) Theo. Ryan,

Acting Secretary.

3 inclosures.

COPY.

Cherokee Freedmen

D-376.

Muskogee, Indian Territory, August 10, 1904.

Joe Lynch,

Vinita, Indian Territory.

Dear Sir:

You are advised that the Commission is in receipt of departmental letter of July 21, 1904, remanding its decision of April 20, rejecting, among others, your application for the enrollment of yourself, wife and children as Cherokee freedmen.

It is stated in said letter that the Commissioner of Indian Affairs recommends that the Commission's decision be reversed and the applicants be enrolled as Cherokee freedmen, and according to instructions contained in said letter you are hereby advised that you will be allowed to appear before the Commission at its office in Muskogee, Indian Territory, at nine o'clock A. M. on Monday, September 19, 1904, and introduce the testimony of such witnesses as you may be able to procure in support of your said application.

Respectfully,

T.B. Needles.

WITNESSED. Commissioner in Charge.

Register.

COPY.

Muskogee, Indian Territory, December 19, 1904.

Bell, Hastings & Davenport,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Gentlemen:

There are herewith enclosed copies of supplemental testimony taken at Muskogee, Indian Territory, in the following Cherokee Freedman cases:

Cherokee Freedman D-979 and 980, Anna Petersen, et al.

Cherokee Freedman D-3, George Amos Mayfield, et al.

Cherokee Freedman D-292, Elizabeth Dungan, et al.

Cherokee Freedman D-144, Lewis A. Poel.

Cherokee Freedman D-742, David Johnson, et al.

Cherokee Freedman D-276, Joe Lynch, et al.

Cherokee Freedman D-800, Hannah Reas.

Respectfully,

Encl. CG-57.

SIGNED).

Tame Bixby,
Chairman.

COPY

Muskogee, Indian Territory, February 6, 1906.

The Honorable

The Secretary of the Interior.

Sir:

The Commission is in receipt of Departmental letter of January 24, 1906 (I.T.D. 5704-1904), requesting that the Commission make an early report in the Cherokee Freedman case of Joe Lynch et al., (D-376 et al.).

In reply the Commission beg to say that this case has been held awaiting testimony in one of the cases of which the Joe Lynch case is a part. It is now thought that sufficient testimony has been secured to enable the Commission to render its decision in this case, and the matter will receive immediate attention.

Respectfully,

Through the
Commissioner of Indian Affairs.

(SIGNED)

Tama Bixby
Chairman.

COPY.

Cherokee Freedmen

D-276.

Muskogee, Indian Territory, June 16, 1906.

Joe Lynch,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, rejecting, among others, the application for the enrollment of yourself, et al., as Cherokee freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-21
Register

(SIGNED)

Tamm Dickey
Chairman.

COPY.

Cherokee Freedmen

B-376, et al.

Muskogee, Indian Territory, June 16, 1906.

A. S. McRea,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

SIGNED,

James Bixby
Chairman.

Incl. 8-21,
Register

COPY.

Cherokee Freedmen

D-576, et al.

Muskogee, Indian Territory, June 16, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

W. C. B. Tams Bixby.
Chairman.

Incl. 2-33.

COPY

Therese Freedom
B-3701 et al.

Madrege, Indian Territory, June 14, 1934.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Joe Lynch, et al., as Therese Freedom, including the Commission's decision dated June 14, 1934, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Therese Freedom.

On July 22, 1934, the Department remanded this case for rehearing and readjudication.

Respectfully,

(SIGNED).

Tame Blaby

Chairman

Incl. B-14,

Through the

Commissioner of Indian Affairs,

July.

DEPARTMENT OF THE INTERIOR, LRS

WASHINGTON.

D.C. 1778-1907
I.T.D. 2150-1906
8406- "
8429- "
8737- "
8739- "

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 11, 1906 (Land 47227), the Indian Office submitted the record in the matter of the application for enrollment as Cherokee Freedmen by Joe Lynch for himself and wife, Sophie Lynch, and minor children, Eliza, Cynthia Jane, Randolph, Ruth, and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle Jane, Ethel Jane, Josephine, and Arthur Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Denton for his wife, Vina Denton, and minor child, Stella Denton; by Nancy Curle for herself and illegitimate minor child, Lela Buffington; by Walter Downing for his wife, Rachel Downing, and his minor child Herbert Downing, and by Martha Lynch for herself and her illegitimate minor children, Jennie May and Lee Bennett Lynch, including the decision of the Commission to the Five Civilized Tribes dated June 14, 1906, favorable to Herbert Downing and adverse to all other applicants.

There appears to be no proper reason for granting said motion, and it is hereby denied.

The Department concurs in the recommendation made, and the Commission's decision is hereby affirmed.

The papers in the case, including said motion for review, have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 incl. and 3 to Ind. Of.

Cherokee Freedmen
D 376

Muskogee, Indian Territory, September 11, 1906

Starr & Patten,

Attorneys for Joe Lynch,

Vinita, Indian Territory.

Gentlemen:

This office is in receipt of your letter of September 6, 1906, asking to be informed as to the present status of the Cherokee freedmen enrollment case of Joe Lynch, et al. C.F.D. 376.

In reply you are advised the records of this office show that the application for the enrollment of Joe Lynch, his wife Sophia Lynch, and children, Eliza, Cynthia Jane, Randolph, Ruth and Jackson Lynch was refused by the Commission to the Five Civilized Tribes June 18, 1906, and that said decision was forwarded to the Department on the same date, where it is still pending. You are further advised that a motion for review of said case was filed with the Department on September 7, 1906, by attorneys for the applicants, and that the same is still pending before the Department.

Respectfully,

L M B

Commissioner

Cherokee F.
D-376

Muskogee, Indian Territory, January 18, 1907.

Joe Lynch,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, your application for the enrollment of yourself, wife and minor children as Cherokee freedmen, was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the Cherokee freedmen enrollment case of yourself, et al., filed by your attorneys September 7, 1905, denied.

Respectfully,

JMH

Commissioner.

Sherokee F.
B-376 et al.

Muskogee, Indian Territory, January 18, 1907.

Blue & Bulger,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Hubert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed by you September 7, 1906, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. H-54
JME

Commissioner.

Cherokee F.
D-576 et al.

Muskogee, Indian Territory, January 18, 1907.

V. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. H-55
JWH

Commissioner.

49076

338.4	Indian Office, Incl. No. 2	1904
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Department of the Interior
BUREAU OF INDIAN AFFAIRS
JUL 10 1904
Ex. No. ~~X~~ of No. 5794
Indian Territory District.

490.6

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE
APPLICATION FOR ENROLLMENT
OF

Joe Lynch et al.
Wester Foster et al.
Arthur Lynch
John "
Vina Benton et al.
Nancy Curls "
Rachel Downing "
Martha Lynch "

As _____ citizen of the Cherokee Nation.

Muskogee, I. T.,

190

Respectfully forwarded to the Secretary of the Interior
for review.

Acting Chairman.

Cher. Fr. R 878

Cher. Fr. R-878

Trans. from Cher. Fr. D 381

A. J. D. 381

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
MAY 22 1901

[Signature]
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 23, 1901.

In the matter of the application of Rachel Martin for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined by Commissioner Breckinridge, she testified as follows:

- Q Give me your full name? A Rachel Martin.
Q How old are you? A I don't know my age.
Q Come to it as near as you can? A I ~~should~~ count myself about 30.
Q What is your post-office? A Spavinaw.
Q In what district do you live? A Saline.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir, that's what I am.
Q Who is it you want to enroll besides yourself? A My 2 children I believe; I have got three, but I believe one is enrolled with her husband.
Q You have got two children unmarried? A Yes sir.
Q Are these two children under 21 years of age? A Yes sir.
Q They are both living now? A Yes sir, one is crazy.
Q You have no husband that you wish to apply for? A No sir, my husband is dead.
Q How long have you lived in the Cherokee Nation? A I have lived here all my life.
Q Give me the name of your father? A My father was named Lige Musgrave I believe, as near as I can remember.
Q Give me the name of your mother? A Sylvia.
Q Is she alive? A No sir.
Q How long has she been dead? A I don't know whether she is dead or not neither, I was taken away from her when I was small.
Q You were a slave in the Cherokee Nation when the war began between the North and the South? A Yes sir.
Q To whom did you belong? A Mrs. Dannenberg.
Q Where did she live? A She lived in Flint District.
Q Was she a recognized Cherokee citizen? A Yes sir.
Q Whereabouts in Flint District did she live? A I couldn't tell you because I don't know.
Q You lived there didn't you, with her? A Yes sir, lived there with her up until the war, but then you know I didn't have no record; I don't know nothing about it.
Q You have been married have you? A Yes sir.
Q How many times? A I have been married once or twice I believe.
Q What was the name of your last husband? A Nelson Martin.
Q Is he dead? A Yes sir.
Q How long has he been dead? A Over a year I guess.
Q Was he a Cherokee Freedman? A Yes sir.
Q When did you marry him? A I don't know; I can't tell you what year nor nothing about it.
Q How old is the oldest child you have by him? A The oldest one is - I don't know, he is about 24 I guess.
Q Well how long had you been married before that child was born? A I couldn't tell.
Q You had been married sometime? A Yes.
Q Well you had been married 25 or 26 years hadn't you?
Q I couldn't tell; I reckon, I don't know; I am ignorant of a heap of things.
Q What was the name of the other husband you had besides Nelson?
A John Martin, he was a cousin of Nelson Martin.
Q He was your first husband? A No sir, Ben Bean was my first I was never married to him.
Q You have children by John Martin have you? A One.
Q How old is that child? A About 25.
Q Now you told me you had been married twice, and now you state you have been married three times? A I wasn't married to Ben Bean.

Rachel Martin et al 2

Q Have you got children by Ben Bean? A I have got one.
Q Well, you lived with Ben Bean before you lived with either one of the Martins didn't you? A Yes sir.
Q Well, you lived with John Martin before that child was born that you had by him, didn't you? A Yes sir.
Q So your name has been Martin for 26 years? A Yes sir.
Q Give me the names of these 2 children that you apply for?
A Luther Martin.
Q How old is Luther? A 25 I guess.
Q I told you not to apply for any under 21? A He is crazy.
Q What is the name of this crazy child? A Luther Martin.
Q How old did you say he is? A About 25 I guess.
Q And he is the one that's crazy? A Yes sir.
Q Now give me the name of the next child, the one that is under 21?
A John.
Q How old is John? A He is about 12 or 13 years old.
Q Is his name John Martin? A Yes sir, his name has always went on there as John Martin.
Q Have you any more under 21? A No sir.
Q You just apply for these two? A Yes sir.
Q Are these two children living now? A Yes sir, they are both living.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found;

1896 census roll of citizens of the Cherokee Nation examined and applicants not found;

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined, and applicants identified on:
page 127 #3171 Rachel Martin, Saline District;
page 127 #3177 Luther Martin, Saline District.

Q Was this John Martin ever called John Towers? A Yes sir.
Q Who does this child live with? A He lives with me.
Q Why do you call him, Towers? A Why I lived with John Towers.
Q Who had this child enrolled? A Why I guess Nelson Martin, I don't know how he got mixed up; I never went in the other court.
Q What is the name of this man Towers that you lived with? A His name was John, that's what they called him.
Q Is he living now? A Yes sir.

Com'r to roll clerk: Is there any age given for that child, John Towers there? A No sir, it is given as the child of Rachel.

Kerns-Clifton roll of citizens of the Cherokee Nation examined and child identified as follows:
page 127 #3176 John Towers, Saline District.

Kerns-Clifton Pay roll of citizens of the Cherokee Nation examined and applicant's former husband identified on page 189 #3935 John Towers, Coowasee District, age forty on Wallace.

Com'r to roll clerk: What age is he given there? A Seventy, sir.

Q But forty on Wallace? A That's what the note says on margin.

Wallace roll of citizens of the Cherokee Nation examined and this man identified as follows:
page 141 #2936 John Towers, Delaware Dist, 40 years old.

Com'r to roll clerk: Is there another John Towers on the Wallace roll? A Yes sir, another one on the same page, 55 years of age, and in Saline District.

Rachel Martin et al 3

Com'r: Just give as a matter of information that younger John Towers, 38.

Wallace roll of citizens of the Cherokee Nation, page 141 #2959 John Towers, Saline District, 38 years of age.

Com'r to clerk: Is he by himself there? A Yes sir.

Q Now this child that you call John Martin, is that the child of a man named John Towers? A Yes sir.

Q How do you want that child enrolled, as John Towers or John Martin? A Put it down as John Martin, his step-father raised him and I want it on that way.

Com'r: A copy of the testimony in this case will be filed with Cherokee Freedman doubtful card 203, said case being entitled John Towers, and said John Towers being apparently a different man from the one supposed, and the father of the child now applied for as John Martin.

Q Now why is it your name does not appear upon the roll of 1880? A I don't know.

Q Did you not apply to be enrolled at that time? A No sir, I don't reckon I did.

Q Your name does not appear on that roll, nor does the name of your husband appear on that roll, neither does the name of your insane child, Luther? A No sir, because they ~~know~~ didn't put them on, that's all I know.

Q Where were you during the war between the North and the South? A I went to Kansas.

Q Where did you go in Kansas? A Went up in Ottawa.

Q Were you married at that time? A No sir, I wasn't married, but I was living with a man that went with me from here there.

Q What was his name? A Ben Bean.

Q Is Ben Bean living now? A No sir.

Q Did Ben Bean come back with you from Kansas? A Yes sir.

Q When did you and he come back? A In '66.

Q What time in '66? A Along about Christmas time.

Q Who came with you besides Ben Bean? A There was two other men, come with me.

Q Just you and Ben Bean and two men besides Ben Bean? A Yes sir.

Q That was all there was in your party? A Yes sir.

Q Give me the names of these two men? A John Curry and Henry Griffin.

Q Is John Curry alive? A No sir, they aint neither one of them alive.

Q Where did you come? A Down on the river there at Island Ford there, at Granny Bean's.

Q That Island Ford of Grand river? A Yes sir.

Q Have you lived there ever since? A Yes sir.

Q You are living there now? A Yes sir.

Q You have continued to live at the same place you came when you first came from Kansas? A No sir, don't live at the same place, because I didn't settle no home when I first come.

Q But you are living right on about Island Ford? A Yes sir.

Examined by Cherokee Representative, W.W. Hastings:

Q When were you married to Nelson Martin? A I was married, I just don't know how long.

Q You wasn't married to him then when you came here?

A No sir.

Q Did Nelson Martin have a family before the war? A Yes sir.

Q He had a wife? A Yes sir.

Q You didn't come back here with him? A No sir.

Q Where did you marry him? A Married him right here in the Nation, down on the river.

Rachel Martin et al 4

Q You came back with Ben Bean? A Yes sir, who I lived with during the war and before the war, long time.

Q You went north with him? A Yes sir.

Q You had no children by him? A Yes sir, but they all died, all but the one I had since we come here.

Q That Luther? A No sir, that's the girl that's married.

Q What's Luther's name? A Martin.

Q You came back with John Curry did you? A Yes sir, John Curry was along and a man named Henry Griffin.

Q And you came direct to Island Ford? A Yes sir, went to Island Ford, went to Brother Mayfield's and old uncle Sandy Bean's, that's where I most made my home.

Q ~~That~~ ~~where~~ They were living there at that time? A Yes sir, they was.

Q On which side of Grand River? A Over on the other side of Grand River in Saline.

Q On the east side? A Yes sir.

Q Did you live there before the war? A No sir, I lived in Flint; here is a paper that will tell you where I lived, and all about it.

Com'r takes papers.

By Mr. Hastings

Q How far did you live when you returned from George W. Clark?

A I don't know.

Q You know him? A I don't know nothing about him; I never seed him until I was here a good while.

Q You saw him when you came back here in '70? A I come back here in '66; maybe he didn't see me, if he has been here; I was here in '66.

Q You know the years do you aunty? A No sir, I don't, I know just what people tell me.

Q You don't know one year from the other? A No sir, I don't; I never had no chance to know nothing.

Q The year of '66 is the only year you know? A The year '66 was when I was told we must come back here.

Q Who told you that aunty? A Why the people where we was in the States told us we had better come back to our country.

Q Where did you return from, what place in Kansas? A Ottawa.

Q Did you come in a wagon? A Yes sir. There was no trains running then that I remember; if there was they wasn't here.

Q Was there but one wagon of you? A There was one wagon.

Q You came direct down to Island Ford? A Yes sir.

Q How long after you ~~went~~ ~~was~~ ~~it~~ ~~until~~ returned was it until you made improvements, moved to yourself? A I don't know; a year or two.

Q Who did you live with the first year? A I tell you I stayed with these folks here, Brother Mayfield and them Beans out there, Granny Bean.

Q What was her name? A Her name was Rachel Bean.

Q Do you mean to say you stayed with them a whole year before you went to making a farm or improvement? A We never made no farm.

Q Never did make any farm? A No sir, because we didn't need none then.

Q You know Mr. West? A I don't know nothing about him, I see him and that's all, I know.

Q Was he living down there when you came back in '66? A I don't know; I never looked to see.

Q How far do you live from him now? A I couldn't tell you; I don't know how far it is, I aint going to say, because I don't know.

Q Well your post-office is Spavinaw? A Yes sir.

Q That's his post-office aint it? A I reckon it is.

Q Can't you give any estimate about how far it is? A I don't know, I couldn't tell.

Q Is it as much as four or five miles? A I don't know.

Q Tell some of your Cherokee Neighbors when you first returned to the country after the war? A I don't know no Cherokees but one

Rachel Martin et al 5

old Toonias.

Q And he is dead? A Yes sir.

Q You don't know any of them that's living? A No sir, I never went around enough to know, I don't know nothing about them.

Q What did you do down there for a living when you first returned? A What I just lived like I live now.

Q How did you get something to live on? A Well the people had something to live on.

Q Didn't you work for nobody around there? A Of course I worked for the people where I stayed.

Q Who did you work for? A I worked for my own color.

Q You never worked for any Cherokees? A No sir.

Q Did you say it was in the spring or fall of '86? A I said it was in the fall, along about Christmas time.

Q Where were you in '65? A I guess I was here in the Nation, I don't know, I don't know when '65 was, it was after '66 I reckon or before, I don't know which, I don't know how in the world you expect people to say anything when they were not allowed to know nothing; we wasn't allowed to pick up a book, if we did we would have got slashed for it; then question us around here, I can't know all you ask me, I can't.

Q You can't remember, then, when you married Nelson Martin? A No sir, I don't know what year it was, nor how long. Old Clark don't know nothing about me.

By Commissioner Breckinridge:

Q One of your children that you had by Ben Bean is still living?

A Yes sir.

Q She is married is she? A Yes sir.

Q What is her name now? A Feriby Landrum.

Q How old is Feriby? A I couldn't tell you. She knows her age better than I could tell you.

Q Where was she born? A Born here in the Nation.

Q Was she born before you went to Kansas or after you came back?

A After I got back here.

Q What is the name of her husband? A Sam Landrum.

Q Have they children? A Yes sir.

Q How many children? A Got seven or eight, I disremember.

Com'r Breckinridge: The applicant applies for the enrollment of herself and two children; it appears that the applicant was a slave in the Cherokee Nation at the time of the breaking out of the Civil War, and that she was carried to the State of Kansas during the War; she claims to have returned to the Cherokee Nation about Christmas of the year 1866, and to have lived in the Cherokee Nation ever since; she is identified on the Kerns-Clifton roll but not upon the roll of 1880 or upon the census roll of 1896; for the further consideration of the applicant's case as set forth in the testimony, to which general reference is made at this time, she will now be listed for enrollment as a Cherokee Freedman on a doubtful card; as for the applicant's children, the older, Luther Martin, is said to be insane, and unable to apply for himself; he is 25 years of age, and under the conditions stated the applicant is permitted to apply for him? A He is said to be living at this time; he is identified on the Kerns-Clifton roll, but not upon the roll of 1880 or upon that of 1896; he will now be listed for enrollment as a Cherokee Freedman on a doubtful card, with his mother; the younger child, John Martin, is identified on the Kerns-Clifton roll as John Towers; the variation in name is explained in a satisfactory manner; this child is now living and will be listed with his mother as a Cherokee Freedman on a doubtful card; it has been ordered that copies of this testimony be filed in Cherokee

Rachel Martin et al 6

Freedman case B-203, and that reference to this additional testimony in that case be made on the card thereof, it being evident that some misapprehension has existed in regard to the father of this child there listed under the name of John Towers. The final decision of the commission in regard to these applicants will be made known to the applicant herself so far as respects her and the 2 children for whom she has applied, at her post-office address, when that decision has been rendered by the Commission.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this May 22, 1901.

[Signature]

Commissioner.

[illegible]

Funerary

[illegible]

3. The above information is true and correct to the best of my knowledge and belief.

6. The Board of Directors of the Corporation shall have the right to purchase the shares of the Corporation owned by any shareholder who is not a resident of the State of New York, at the same price as the shares are then selling for on the New York Stock Exchange, if the Board of Directors shall so determine.

1. The first of these is the fact that the
 2. Government has not yet decided whether
 3. it will accept the offer of the
 4. United States to purchase the
 5. Alaska Pipeline. This is a
 6. very important decision, and
 7. it is one that the Government
 8. must make soon. The
 9. Government has not yet
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 12. United States to purchase
 13. the Alaska Pipeline. This
 14. is a very important
 15. decision, and it is one
 16. that the Government
 17. must make soon.

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1. The first of these is the fact that the majority of the population of the United States is now living in urban areas. This is a result of the process of urbanization, which has been going on since the beginning of the 20th century. The population of the United States has increased from about 100 million in 1900 to over 200 million in 1950. At the same time, the population of rural areas has decreased from about 100 million in 1900 to about 50 million in 1950. This has led to a concentration of the population in urban areas, which has had a profound effect on the social and economic life of the country.

to meet the

Re: 470, in the case of C. W. B. 205-9
Bouquet Heights, N.Y.

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To be filed in the case of U. S. No. 342. (Rachel Martin et al)

Department of the Interior,
Commission to the Five Civilized Tribes,
Cherokee, I. T. June 3rd, 1901.

J. B. Bell, Cherokee representative. A. B. McKee, for applicant.
SUPPLEMENTAL TESTIMONY in the application of John Towere, Cherokee Freed
men Doubtful case #305.

JENN COCHRAN, called and sworn as a witness by Commissioner T. B. Needles.
Testified as follows on the part of the applicant:

By Com'r Needles: Q What is your name? A, John Cochran.

Q How old are you? A. 52.

Q What is your post office address? A, Shalson.

By A. B. McKee: Q Do you know the applicant John Towere? A Yes sir.

Q How long have you known him? A. The first time I saw him was in the
spring of '88.

Q Where was that? A Over here on Grand River, Delaware district.

Q In the Cherokee Nation? A. Yes sir.

Q Has he remained in the Cherokee Nation ever since you first saw him?

A I can't tell you about that.

Q Have you seen him off and on in the Cherokee Nation since? A. No sir.
I only saw him for 4 or 5 years after I first met him, that is con-
tinuously

By Commissioner-

Q You are a Cherokee citizen by blood are you? A. Yes sir.

Q And you saw John Towere in the Cherokee Nation in '88? A Yes sir.

Q And you knew him in the Cherokee Nation for 4 or 5 years after that?
A Yes sir.

Q Did you know who he belonged to? A. Arch Landrum had him then.

Q Do you know if he went out of the Cherokee Nation during the war?

A No sir, I don't.

Q Where did you say you saw him? A. Over in Delaware district in the
Cherokee Nation.

Chas. von Noice, being sworn states that as stenographer to the Com-
mission to the Five Civilized Tribes he reported in full all the pro-
ceedings in the above cause and that the foregoing is a full, true
and correct transcript of his stenographic notes.

Chas von Noice

Subscribed and sworn to before me this ~~27th~~ 27th of July, 1901.

W. D. Green

Notary Public

Commissioner.

910380

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAR 28 1902

[Faint, mostly illegible text from the reverse side of the document is visible through the paper. Some words like "Commission", "Department", and "Five Civilized Tribes" are discernible.]

File with G. F. D-381, Rachel Martin.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T., June 12, 1901.

In the matter of the application of Thomas Mayfield, for the enrollment of himself and others as Cherokee Freedman.

Supplemental testimony, Cherokee Freedman D 200.

Appearances:

Mellette & Smith, and I. P. Bledsoe, for applicants;
W. W. Hastings, for Cherokee Nation.

The attorneys for the Cherokee Nation make proof of the proper service of notice of the introduction of testimony in the above case on this date.

Walter A. West, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Walter A. West.

Q What is your age? A 60 years.

Q Are you a citizen of the Cherokee Nation? A Yes, sir.

Q By blood? A Yes, sir.

Q How long have you lived in the Cherokee Nation? A 60 years.

Q Were you out of the Nation during the war? A Yes, sir, I was out during the war three or four years.

Q When did you come back to the Cherokee Nation after the war? A I came back in the spring of '66.

Q Where did you live in the spring of '66? A I lived up on Neesho River after I went up above.

Q How long did you live there? A I lived on Neesho, this side of Neesho River, about two or three months, and then I moved down below.

Q Do you know Thomas Mayfield, the applicant here present? A Yes, sir.

Q Did you know him before the war? A No, sir.

Q How long have you known him? A I got acquainted with him, I saw him in '69 the first time I saw him.

Q Well, where was he? A Well he was on the military road right below where I was living.

Q From what points does that road run? A Runs from Fort Gibson, at that time.

Q Whereabouts does it run north? A Fort Scott, Kansas, and Kansas City and Baxter Springs.

Q Well, state the circumstances of seeing him on the military road? A I lived there on the military road and he came past my house and camped there nearby, that is when I got acquainted with him, when I saw him.

Q Did he have his family? A He had a family with him I supposed to be his family.

Q Any others along with him? A Yes, sir, Jack Davis, Sandy Bean, and Jack Bean.

Q Had you ever seen him before? A Who you mean, Mayfield?

Q Mayfield? A No, sir.

Q Where had you been living the two years immediately before that? 1867 and '69? A Right on the military road there.

Q How far did Mr. Mayfield live from you after you saw him in '69?

Q About five miles.

Q Did he stay there? A Yes, sir, rented a place across the river and lived on the place he rented.

Q Did you know where he was from when you first saw him? A I just supposed he was from up there in Kansas.

Q Tell all the circumstances, what you know about seeing him?

Thomas Mayfield. 5 2

A He came down the road from Kansas, that direction, and he camped there, there is where I got acquainted with him.

Q Was he married? A Yes, sir.

Q Have his folks with him? A Has his family, this woman that lived as Mayfield's wife.

Q That is the first time you saw him in the Cherokee Nation?

A Yes, sir, the first time I saw him.

Q Is there anything that makes you positive about fixing the date in 1869? A No more than this: I had been trading with some government wagons, that is the man that was driving the wagons, selling some hay, the day he came there, and I got my pay for that in two or three days afterwards, on the 20th I believe, February, 1866.

Q You mean 1866? A 1869.

Q Did you preserve any letter or document which shows the date when you receive the pay for the hay? A Yes, sir, I have a paper that shows the date exactly, but I didn't preserve it at that time, I filed it away with all the papers I have, and I didn't think of it in this other case heretofore.

Q And you have that with you? A Yes, sir.

Q And what date does it show? A It shows I received my money on the 20th, that is my check.

Q On what month? A February, 1869.

Q You were pretty well acquainted in the neighborhood in '69?

A Yes, sir.

Q Had you been for the two years previous? A Yes, sir.

Q Did you know any of the colored people who were in the crowd with Thomas Mayfield? A I did Jack Bean, I knew him.

Q Had you known him before the war? A Yes, sir, I knew him before the war.

Q Did you have any talk with him at that time? A Yes, sir, his wife was a servant of my wife's father, and they learned that we were there on the road and they came there and visited us, is how some me to know what I do know of these circumstances.

Mr. Smith: Mr. West, you hadn't been acquainted with Thomas Mayfield before the war? A No, sir.

Q The time that you speak of is the first time you ever saw him?

A Yes, sir, the first time I saw him.

Q You don't know how long he had been in the Cherokee Nation when you saw him? A No, sir.

Q You don't know whether he had his family with him at that time or not? A No, sir, he had a family but I don't know whether they were his or not.

Q When did you say you came back to the Cherokee Nation after the war? A I left Red River February 1st, 1866.

Q Where did you go to? A I went on up to Fort Scott, right direct through the country, to where my mother lived on this side of Fort Scott, Drywood.

Q How long did you stay there? A Will about the first or middle of May.

Q In what year? A 1866.

Q Then where did you go? A I came down to Neesho, in the Cherokee Nation, and there set up my tent and went to trading and trafficking with the travelers along that road.

Q How long did you continue in that business? A I continued off and on the season through.

Q How long was the season? A From the time I went there till fall.

Q From May until the fall? A Yes, sir.

Q Then where did you go from there? A I went lower down on the military road where I was stationed, where I first saw Thomas Mayfield, and I built a house.

Q You built your house there in the fall of 1866? A Part of it, not all of it.

Q When did you build the rest of it? A In 1867.

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Q How long after the time you saw Thomas Mayfield was it before you were called upon to remember anything about having seen Thomas Mayfield on that occasion; how many years? A It was during this Kern-Clifton examination.

Q Now you saw him, Thomas Mayfield, you say, in 1869? A Yes, sir.

Q When was the Kern-Clifton Commission? A I am not positive, '65 or '66; not '65, '96 when it was I believe.

Q In 1896, was it? A It seems to me, I am not positive.

Q Then that was about 28 years wasn't it, from the time you had seen Thomas Mayfield? A Yes, from the time I first saw him, but I saw him off and on all the time after I got acquainted with him.

Q You have stated you had no occasion to remember the fact that you saw him upon this particular date in '69 until the meeting of the Kern-Clifton Court? A Yes, that drew my attention to it.

Q That was about 28 years afterwards? A Somewhere along there I guess.

Mr. West, did you remember for 28 years without ever having had any occasion to have your attention called to it, that you saw him upon a certain day that you got a letter or pay for the hay, or what ever it was? A Now as far as that is concerned, it is like this, we all remember when the people was coming in, and it was common talking when they come in.

Q Just answer that question? A That is the one particular time.

Q So 28 years afterwards you were able to remember that you had seen Thomas Mayfield about the time you got a letter or receipt, for some hay or something that you had sold, is that right? A Yes, sir, somewhere along there.

Q Well now Mr. West, what connection was there between Thomas Mayfield and the hay, that you can go back 28 years and remember and fix that date that you saw Thomas Mayfield by the letter which you are now talking about? A I had the transaction as I told you with these government teams, selling them hay, and the very day that he came there, the same day, that is the reason why I know it was the same time.

Q Did you have but one transaction with the Government men? A I had them often, but not as much as that was.

Q How many times have you had transactions with the Government teams about hay? A Two or three different times.

Q Or three or four or half a dozen? A No, not that many.

Q No more than three or four? A Not over three or four.

Q How can you go back 28 years and tell which one of these transactions it was you had had, and connect that particular transaction or any other with Thomas Mayfield 28 years after? A Simply I got a paper to that effect on that date.

Q Did that paper say anything about Thomas Mayfield? A No, sir, that transaction never, but because of my knowledge.

Q You say it didn't say anything about Thomas Mayfield? A No, sir.

Q You can go back 28 years and connect Thomas Mayfield with that particular transaction, how do you do that? A Simply I had that transaction at that time.

Q Were not there other transactions? A Yes, sir, but not so great as that was.

Q It couldn't have been some other transaction you had with the Government when you saw Thomas Mayfield? A It might have been some other, but it wasn't, that is all there is about that part of it.

Q Are you able to remember it was this particular transaction?

A Yes, sir.

Q Have you got that letter? A Yes, sir, it is just a receipt (hands Mr. Smith paper.)

Q (Returning paper) Mr. West, all that you claim about the paper about which you have spoken is that it carries the date by which you fix the time? A Yes, sir, it carries it, nearabout it.

Q Did you have that paper; were you a witness before the Kern-Clifton Commission? A Yes, sir, I was.

Q Did you have that paper then? A Yes, sir.

Thomas Mayfield 8 4.

Q When did you hunt that paper up? A I hunted it up during that court time.

Q Were you subpoenaed as a witness during that Court? A Yes, sir.

Q When did you hunt the paper up, before or after you were subpoenaed? A I hunted it up after I was subpoenaed, I didn't have occasion to hunt it up before.

Q You testified, I believe you stated, before the Kern-Clifton Commission? A Yes, sir.

Q Mr. West, you don't know where this man was in '66 do you?

A Not till that date, not before that date.

Q I say you don't know then where he was in '66 or at any time prior to '66? A Only that day of '66 when he passed my house.

Q He passed your house in '66 did he? A In '69 I meant, that is the first time; in '66 I don't know where he was, or any time before '69.

J. L. Thompson, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. L. Thompson.

Q What is your age? A 62.

Q What is your post-office? A Vinita.

Q Do you know the applicant, Thomas Mayfield, the colored man there?

A Yes, sir.

Q How long have you known him? A Well, I have to kinder study and tell you.

Q Did you know him before the war? A No, sir.

Q You have only known him since the war? A Yes, sir.

Q Where did you go during the war? A Went to Texas.

Q When did you return to the Cherokee Nation after the war? A I came to Fort Gibson in December, 1867, and Cabin Creek January 1868.

Q Well, where did you first locate up in this country, up near Vinita? A Right where I live now, but I didn't own the place then, I only rented it that season.

Q You have lived there ever since 1868? A No, sir, I moved away from there and moved back again.

Q You have lived ~~xxxx~~ in the same neighborhood ever since?

A Yes, sir, always.

Q How far does Mr. Mayfield live from you, the applicant, A Where he lives now, just about five or six miles I reckon.

Q When did you first see Mr. Mayfield after the war? A Well, it must have been, to the best of my recollection, about '69 I reckon it was, I am pretty positive it was, to the best of my recollection.

Q Was he up there in that neighborhood when he first returned?

A No, sir, never heard of him.

Q Was there an investigation by the Supreme Court about five years after the war with reference to the return of colored people in the Cherokee Nation? A I don't remember.

Mr. Smith: I object to that as not being apparently the best evidence of the fact.

Q How far has Mayfield lived from you since you saw him in '69?

A He lives about as far now as he ever did.

Q Lives in the same neighborhood then? A Yes sir, he lived right in the same neighborhood there, probably five or six miles from where he first settled.

Q You didn't know Mayfield before the war, A No, sir.

Mr. Smith: What time did you say it was, Mr. Thompson, when you back back to the Cherokee Nation after the war? A I said I came to Fort Gibson in December, 1867, I came to Cabin Creek in January, 1868.

Q In January, 1868? A Yes, sir.

Q You didn't know Thomas Mayfield before the war? A No, sir.

Q You don't know where he was in '66? A No, sir.

Q You don't know whether he was in that neighborhood that you went to when you went up there or not? A If he was there I never heard

Thomas Mayfield 5

of him; he might have been as far as I know, but if he was I know I never heard of him.

Q He might have been there though? A He might have been, but I knew most of the darkies in the neighborhood.

Q You can't state he wasn't in that neighborhood when you went there? A No, sir.

Mr. Hastings: You never saw him? A I never saw him.

Q You were well acquainted throughout the neighborhood? A Yes, sir, I lived there before the war.

Q You were acquainted with it before the war? A Yes, sir.

Q Was it thickly settled or thinly settled? A It was sparsely settled.

Q You knew people from a distance? A Yes, sir.

Mr. Smith: You didn't go around as quick as you got here and found out who was in that country? A No, sir, it wasn't my business.

Q And a man might have been there a year or two before you saw him?

A I don't believe he would have been in the neighborhood, I don't believe that long.

Q You don't know so, but you don't know he couldn't have been?

A Of course it wasn't my business to run around and hunt them up.

Q But you can't say whether Mayfield was there when you came there or not? A I can't positively say he wasn't there, but if he was I didn't see him.

R. L. Martin, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A R. L. Martin.

Q What is your age? A 51.

Q What is your post-office? A Pensacola.

Q What was your father's name? A Joseph L. Martin.

Q Do you know the applicant there, Thomas Mayfield? A Yes, I think I do.

Q Did you go out of the Nation during the war? A Yes, sir.

Q When did you come back to the Cherokee Nation after the war?

A November, '66.

Q Where did you go to? A Went to Texas.

Q Come back with your father? A Yes, sir.

Q Where did you first locate after the war? A We located at our old place, called Greenbriar, on Grand river.

Q Did you know Tom Mayfield before the war? A No.

Q Did you know him after the war? A Yes, I knew him after the war.

Q Do you know when Tom returned to the Cherokee Nation? A No.

Q When was the first time you ever saw him after the war? A The first time I ever saw him to know him was about '69.

Q How far did he locate from you? A About two miles and a half; well I wasn't living there in '69, that is there I live now.

Q How far were you from him when he located there in '69? A I don't know really, I was at my old place I guess down about ten miles.

Q How far were you from where he located in '66; were you at your old place then? A Yes, in November, '66, about ten miles.

Q You were at the same place in November, '66 and in November '69 also? A Yes, I made that my home although I didn't stay there all the time, I was about from one place to another.

Mr. Smith: You were unmarried at that time? A Yes, sir.

Q A young man living with your father, and made that your headquarters? A Yes, sir.

Q Where did you spend most of the time? A I was here and there and in Texas and back and forward and on the road a good deal.

Q There part of the time and Texas part of the time and here and there? A Yes, sir.

Q Then that place that you speak of was about ten miles from where Mayfield went to live, was it? A Yes, that is where my father lived.

Q At that time you didn't have a home, stayed with your father?

A I didn't have any certain place only at father's.

Thomas Mayfield 6

Q About what age were you then? A About 18 or 19.

Q When was it you first saw Thomas Mayfield? A The first time I remember seeing him I think was about '69, he was running a ferry.

Q And you are not right certain about its being '69? A Well, yes I am pretty certain it was '69 the first time I saw him to know him if I saw him before I didn't know him.

Q Might that not have been in '68? A Well I don't know as it was, I think it was '69.

Q But you are not positive about it? A No, I will not be positive, it has been so long ago.

Q Well, you didn't go back to your father's place at all until in November, 1866? A That is as early as I came there.

Q How long did you then stay at your father's place after you came back before you went away anywhere? A We were there all winter.

Q Then did you go back to Texas? A No, the next summer I was there and Pryor Creek, and most of the spring and summer.

Q But your father's place was ten miles at least from where Mayfield lived when you became acquainted with him? A Yes, sir.

Q How long was it then before you had a place of your own, and went to living there regularly? A In '72 I moved there in about two miles and a half of him.

Q You have been living in about two and a half miles of him ever since '72? A Yes, sir; that is, until he moved me away, he moved away from the place he was living on then seven or eight years ago.

Q You saw him from time to time until the time you became acquainted with him when you would be in the Cherokee Nation? A Yes, sir, after I got acquainted with him I saw him often.

Q You of course don't pretend to say he hadn't been living up at a place ten miles away from your place when you became acquainted with him? A No, I don't know how long he was living there at all, only when I first saw him.

Lucian B. Bell, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Lucien B. Bell.

Q What is your age? A 63, about.

Q What is your post-office? A Vinita.

Q Do you know the applicant, Thomas Mayfield? A Yes, sir.

Q He is present here is he? A Yes, that is him right behind Smith.

Q Are you a citizen of the Cherokee Nation by blood? A Yes, sir.

Q You go out of the Cherokee Nation during the war? A Yes, sir.

Q What time did you return to the Cherokee Nation after the war? A Well, I came back in the neighborhood of where I settled, right in a mile of where I located, in the latter part of 1867; I came into the Cherokee Nation along in May, 1867, stopped ten miles below there, or twelve, and made a little crop; I located right on Cabin Creek near the military road where it crosses it, on the south side.

Q How far was this from where Mayfield afterwards located, the applicant, Mayfield? A Well, I guess it was three, two or three miles, something like that, there and a half.

Q How long did you live at that place? A Well, if you count me living there now, I have been living there thirty odd years.

Q You own the place now? A I have sold some part of the claim off, but I have got my farm on the same claim.

Q You are familiar with that country? A Yes, I am pretty well acquainted with it, more so then than latterly; latterly I have been away from there a good deal.

Q You lived on that farm then at that time? A Yes, sir, I lived right on the same spot from 1867 to 1881, and then I moved about three quarters of a mile to another part of it.

Q When was the first time you ever saw Thomas Mayfield? A Well, I saw Tom Mayfield about two years after I returned, was the first time I saw him, about 1869.

Q Were you familiar with the place where he located, this section of the country and all? A Yes, I saw him on the other side of the

Thomas Mayfield 7

Grand River settler opposite the mouth of Cabin Creek; he lived there; I don't know whether he was living on his own place or not, probably it was the Bill Hicks place where I saw him first; that is all in the same neighborhood.

Mr. Smith: He was living there when you did see him? A Oh yes he was living there; he wasn't dead.

Q He hadn't just come there, had he? A I can't say, as to that, I know about when he first came, about when I first saw him; I know when the people around there said he came in.

Q I am asking you about your own personal knowledge? A I told you that is the first place I saw him, I don't remember whether he said to me he had just come or whether he had been there, I don't recollect that we talked about that; I had known him some years before that.

Q You have already answered my question. A Well, that is enough. Q Are you the chief counsel of the Cherokee Nation in these proceedings in the matter of the enrollment of the Freedmen before this Commission? A Yes, sir.

Mr. Hastings: Is there anything else you desire to state with reference to Mayfield's return? A No, I don't know that I know of anything further than what I have stated about him, of my personal knowledge.

Mr. Hastings: We desire to have that testimony thrown in the cases of

Charles Mayfield, et al, Freedman B 202, and
Malinda Martin, et al, Freedman D 206.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) Bruce C. Jones,

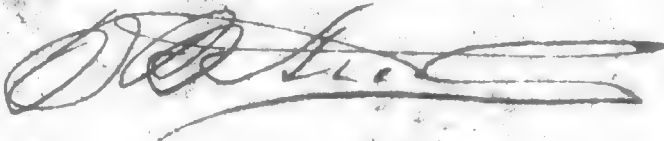
Sworn to and subscribed before me this the 22nd of June, 1901.

(signed) T.B. Needles, Com'r.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript.

M.D. Green

Subscribed and sworn to before me this February 6th, 1902.



Commissioner.

18281

John Johnson

Specified and such to before the said Tribunal in 1898.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
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File with C. J. D-

381, Rachel Martin, et al.
Department of the Interior,
Commission to the Five Civilized Tribes,
Tuskegee, U. T., February 5, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in
the matter of the application of Rachel Martin et al. for enrollment
as Cherokee Freedmen. D-381.

Appearances:

A. S. LeBea, (colored) attorney for the applicants;
W. W. Hastings, of Attorneys for the Cherokee Nation.

WALTER A. WEST, being sworn and examined testified as follows:
BY MR. HASTINGS:

Q Mr. West, what is your name? A Walter A. West.
Q What is your age? A I am 60 yet, I will soon be 61.
Q Are you a Cherokee citizen? A Yes sir.
Q What is your post-office? A Spawinaw.
Q Where did you live in '55? A '66 I was down on Red River.
Q Well when did you come back to the Cherokee Nation after the war?
A I come back in '63, February first.
Q Where did you come to in '63? A I went on through to Drywood
Kansas, through the Nation.
Q When did you first come back here and locate? A I come back in
May '66.
Q When did you move down there on Grand river? A I moved across
the river there first on the Military Road, I first settled on that
road in '66, in May.
Q How long did you live there? A I stayed there until September,
'69, as well as I remember.
Q Did you know Sandy Bean? A Yes sir.
Q Did you know his wife, who was known as "Granny" Bean, in that
neighborhood? A Yes sir.
Q You know when Sandy Bean and his wife came back to the Cherokee
Nation? A They come back in '69 about the 18th or 19th of February,
as well as I remember.
Q How do you know that? A Well I was selling some hay to the
Government when they and some others some there and camped there
and got some hay from me and I have some papers that was dated
at that time and I have them yet.
Q You had them in some other cases in which you appeared? A Yes
sir; I have had them in every case but this one.
Q You refresh your memory from that? A Yes sir.
Q You know Sandy Bean was along then? A Yes sir.
Q Where was he coming from? A Moved from Kansas he said.
Q You were on the old Military Road? A Yes sir, right where all
the public travel had to go.
Q He had his family with him? A Yes sir, he had his family with
him.
Q Do you know a Ben Bean up in that country? A Yes sir, I got
acquainted with Ben Bean after that.
Q Well how long after that? A About '71 or '2, somewhere along
there.
Q Where did you see Ben? A First time I saw him was at Tom May-
field's on the river.
Q How far did you live from Tom Mayfield then? A Two or three miles.
Q You know where Ben had been gone that time or where he was said
to come from? A No, he had just recently come in they said, that
is what Tom Mayfield's wife told me, he was a stranger to me and I
asked her who he was, he was outdoors in the yard when I was in-
quiring about him, feeding somebody's horse well fixed up and in
good shape and I wanted to know who he was. and she said Ben Bean.

that is the first time I saw him.

Q Were you acquainted around in that country before that? A Yes sir.

Q You had never seen him there around there before that? A No sir.

BY McREA:

I don't think I am interested in this case. I represent John Towers, the father of this John Martin, and it seems that the testimony in John Towers' case was thrown in with the Rachel Martin; that's my recollection. However, I have just got this question to ask in connection with the boy, John Martin, alleged son of John Towers:

Q Mr. West, are you acquainted with John Towers? A I am acquainted with one John Towers, there's two up there.

Q I am speaking of the one that's said to be a son of old man Arch Landrum, a step-son? A I know him but I never knew him by the name of Towers until recently; he went by Landrum when I knew him. Same one.

Q Was he a son by the name of John Martin? A I do not know anything about his children at all.

Q You know where this John Towers was in '66? A The one we are talking about?

Q Yes sir? A No sir.

BY MR. HASTINGS:

The Cherokee Nation asks that the testimony of Walter A. West, J. L. Thompson, R. L. Martin and L. B. Bell filed in the case of Cherokee Freedman D-200, Thomas Hayfield, be made a part of the record in this case, for the reason that applicant claims to have come to Tom Hayfield's place and also claims to have come to Sandy Beans wife's, Granny Bean.

BY COMMISSIONER:

This testimony will be made a part of the record in the case at bar, and also in Cherokee Freedman case No. D-203, being that of John Towers.

H. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green

Subscribed and sworn to before me this February 6th, 1902.

[Signature]

Commissioner.

[Handwritten mark]

940381

Approved and signed for release by the Director, Bureau of Prisons, March 13, 1902.

FILED
MAR 13 1902

[Signature]

Noted.

From the undersigned, a copy of the report of the undersigned, dated March 13, 1902, is being furnished to the undersigned, for his information and use.

Very truly yours,
Director, Bureau of Prisons.
Approved and signed for release by the Director, Bureau of Prisons, March 13, 1902.

CR

C. F. D-361.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 3, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION in the matter of the application of Rachel Martin for the enrollment of herself and children as Cherokee Freedmen.

Appearances:

L.B. Bell, of attorneys for the Cherokee Nation.

BY COMMISSION: The Cherokee Nation makes satisfactory proof of service of notice on the said Rachel Martin that testimony would be introduced by the representatives of the Cherokee Nation tending to disprove her right to be enrolled as a Cherokee Freedman at the offices of the Commission at Muskogee, Indian Territory, on the 3rd day of March, 1902, or from day to day thereafter until same could be heard by the Commission during the usual business hours. Applicant has been called three times and fails to respond by attorney or in person.

NELSON MOORE, being first duly sworn and being examined testified as follows:

BY MR. BELL:

- Q Give him your name? A Nelson Moore.
Q Post-office? A Ketchum, Indian Territory.
Q Your age? A 48.
Q Where did you locate in the Cherokee Nation after the war?
A On the Bob Daniel place.
Q District and Nation? A Delaware District, Cherokee Nation.
Q That was on Grand river? A Yes sir, on the east side of Grand river.
Q How far was that from Lynch's Prairie, straight across?
A Well about 5 or 6 miles or 7, somewhere along there.
Q Were you acquainted down there on Lynch's Prairie? A I was acquainted some.
Q You knew Simon Lynch and Andy Bean and Tom Hayfield? A Yes sir.
Q And others that lived down there? A Yes sir.
Q Visited them occasionally? A Yes sir.
Q Was you acquainted with one Rachel Martin, well she has been Rachel Martin all the time, but she is Rachel Martin now, the relict of Nelse Martin? A Yes sir I got acquainted with her.
Q Who was she when you first knew her? A Why when I first got acquainted with her she was a young fellow by the name of John Towers' wife, he had taken up with her.
Q You never knew her as John Martin's wife, Si Martin they called him, fellow that was called that? A No sir.
Q When did you first get acquainted with her? A Why about it it was in '77 or '8 or '9, along in there, in them years as well as I ~~can~~ remember; that is to my best recollection.
Q Did you ever know John Martin any at all? A No sir, I never knowed him personally.
Q Did you ever see him? A I don't remember seeing him at all. I heard of his being killed, but I never saw him to know him.
Q Did you ever see this Rachel Martin in that country before she took that John Towers? A No sir, I don't remember seeing her.
Q She never was in your neighborhood? A No sir.
Q Never was in the neighborhood of Lynch's Prairie? A No sir, not until after John Towers got her for his wife.

BY COMMISSION:

- Q When did you see her first? A '67 or '8 or '9.
Q Where did you see her then? A Up there in our neighborhood near old Docter Thompson in Delaware District.

Q Did you ever see her after that? A No sir.

Q Don't know where she was living in '66? A No sir, I don't.

Q Where were you in '66? A In '66 I was living on the Bob Daniels place; we went from Gibson up there in '66 and was on the Bob Daniels place.

Q You never saw this woman until you saw her in '67 or '8? A No sir, I don't remember seeing her until then.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.


M.D.Green

Subscribed and sworn to before me this ~~XXXXX~~ March 4, 1902.

[Signature]

Commissioner.

20381

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 ACTING CHAIRMAN

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File with F. D. 381, Rachel Martin.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I. T., MAY 20, 1902.

In the matter of the application of John Wilson for enrollment
as a Cherokee Freedman.

SUPPLEMENTAL TO D-790.

Appearances:

Lewis T. Brown for Applicant.
W. W. Hastings for Cherokee Nation.

H. C. HARFORD, being first duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A H. C. Harford.

Q What is your age, Mr. Harford? A My age will soon be 45.

Q What is your post-office? A Post-office is Ottawa, Franklin
County, Kansas.

Q How long has that been your post-office?

A Been my post-office since 1865.

Q Did you know any Cherokee darkies living in that country in the
year of 1868, '7, '8, and '9? A Yes sir.

Q Name some of them? A Well there was Rachel Bean, Ben Bean,
Henry Wilson, Dave Martin, Lou Martin, and Levi Wilson, and Millie
Wilson.

Q Eli Wilson? A Eli.

Q Well when did you learn to know Eli and Millie Wilson?

A Why '88, '9 or '70, and up above '70, '72 and '5.

Q Did they commence living together up there? A Yes sir.

Q How far did Eli and Millie live from you?

A They lived from me just one block east.

Q And how long did they continue to live there?

A They lived there from four to five years.

Q They claimed to be Cherokee darkies?

A Yes sir, they did, claimed their rights down here in this country.

Q Do you know where they went when they left up there? A No sir,
I do not. Well I say I don't; I know where they were reported to
be going; reported to be going to Coffeyville.

Q You don't know except from themselves? A No sir.

Q You say the man was named Eli and his wife Millie?

A Yes sir, Millie.

Q Did you know them well? A Yes sir, I do; pretty well acquainted
with them.

Q Did they live about a block from you?

A Just one block east from me.

Q In town? A In town.

Q Do you know where they came from when they came there?

A No sir, I do not.

Q Did you see him frequently? A Frequently, every day or two,
hunted squirrels with him.

Q Had a family did he? A He had a wife and one child; that is,
supposed to be his; I don't know whether it was or not; I don't know
anything about that.

Q And about Ben Bean, you know him you say? A Yes sir,
Q What was his wife's name? A Her name was Rachel.
Q How long did you know them? Well I knew them, she lived up
there about a year, between a year and a half and a year; they
lived about a block and a half from me south.
Q Where did they go to from there? A Why Ben was missing then,
I don't know where Ben went to; she went to live with a family by
the name of Stroter, kept house for them.
Q How long? A Oh, from a year and a half to two years, quite a
little while.
Q Then you know her three or four years?
A Well I would only say three years anyway.

MR. BROWN:

Q How old did you say you were?
A I will be 45 now in a short time.
Q What year were you born? A I was born in '57.
Q About how old were you when you first became acquainted with Bean
there, how old? A I was born, I moved there in '65, and '67 and '8
and '9 when I first got acquainted with them; '67 I got acquainted
with Bill Bean and Rachel, and I believe the spring of '68 Levi
Wilson and Henry Wilson.
Q How old were you then?
A Figure it up and see yourself; '57 to '68.
Q How old were you?
COMMISSIONER: Answer his question if you can.
A Now that would have been ten years.

MR. BROWN:

Q Do you remember every colored person you met when you was ten
or eleven years old? A No, not every one.
Q Why do you remember the exact year that you met Henry Wilson?
A Why I was well acquainted with him as one of my brothers.
Q He was one of your brothers? A No sir, I said I was as well
acquainted with him as one of my brothers.
Q Why do you remember the first year in which you met him?
A Because I knew I met him, he came there the second year after I
came.
Q You are positive about that? A Yes sir.
Q Where were you living in 1867? A '66 I was living in Ottawa.
Q Well is that where you was living in '67?
A I was living on the same spot of ground.
Q How far was it from the place you was living in '66? A I was
living on the same spot of ground for fifteen or twenty years.
Henry Wilson was in that neighborhood.
Q In '66? A Was in '67.
Q Didn't you just testify he was there in '68?
A In '66, '7 and '8.
Q What year did he come there? A In '67.
Q Didn't you just swear he came there in '66? A I don't recol-
lect as I did; don't think I did; '67 or '8 I meant to say.
Q Where was he in '66? A I don't know.
Q He was 'nt in that neighborhood was he? A Not that I know of.
Q How many children did you say they had? A Who you talking about?
Q I am talking about Henry Wilson? A Henry Wilson didn't have no
children only what he married with his wife.
Q Well how many did his wife have? A She had two.
Q What was their names? A One was Jake Wilson and Emma; Emma
Wilson lives right in Ottawa now; Jake Wilson is down here at Fort
Gibson, if you want to know where he is.
Q No, I don't care about Jake.

Q Well how many children did Willie Wilson have?
A Willie Wilson, I just knew one.
Q What was her name? A I don't know the other's name.
Q Boy or girl? A It was a boy I think; it was small when they were there.
Q Well did you know a George and a John Wilson up in that country, and Frances? A I think George or John was Levi's, but the one they had there, but I can't swear positively to that, to their names.
Q Well did you know them up there? A Well not positive I did'nt.
Q State whether you did or not? A Well I say I did'nt.
Q You have been before this Commission once or twice before, have you? A Once before.
Q And you was down to Vinita last fall? A Yes sir, I was.
Q And you know as much about the Wilson family as you know now?
A Just exactly the same.
Q And never testified at all in the case?
A Not against those I hav'nt.
Q When were you first called upon to recollect when it was that you first met this Wilson family?
A Why I never was called on before until now.
Q Then it's never been brought to your attention for thirty-five years? A Not to the best of my knowledge, no sir.
Q And you remember the exact year that you met this family?
A Yes sir.
Q What year did you say they left there?
A I don't know just exactly the year they left there.
Q Well you remember what year they came there? A Yes sir.
Q What year was it they left there?
A I don't know anything about that.
Q About what time? A I could'nt tell you, about five or six years.
Q Did'nt you say awhile ago they left there— A I was up there in Coffeyville about twenty-three years ago, and saw the whole outfit of them, and we got a team at the livery stable and Henry went with us.
Q When was that? A That was 21 years ago.
Q What year was that? A I told you 21 years ago.
Q Well do you know what year that was?
A Well just figure it up and see.
Q Well you answer the question if you can?
A Well that would be 1881, would'nt it?

MR. HASTINGS: Well just answer it that way.

COMMISSION: This testimony will be filed with and made a part of the record in the following Freedmen cases: George Wilson, D-793, Edward Wilson, D-800, Frances Wilson, D-801, and in the case of John Wilson, D-790, the latter being the case at bar. It appears from the records of the Commission that all of these applicants are represented by Lewis T. Brown.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) Arthur G. Croninger

Subscribed and sworn to before me this 29th day of May, 1902.
Seal.

(signed) P. G. Reuter
Notary Public.

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the purchase of the land for the purpose of building a school house for the colored people of the town of ...

Yours truly,
Matta E. De Witt

Given in the presence of the undersigned on this 11th day of August, 1874.

James C. Jones
Notary Public

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CLERK OF THE DISTRICT COURT
NEW YORK

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P. D-221.

**Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 20, 1902.**

**In the matter of the application of Rachel Martin for the
enrollment of herself and others as Cherokee Freedmen.**

SUPPLEMENTAL TO P-D-221.

Cherokee Nation appears by W. V. Hastings.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the said Rachel Martin that it would on the 20th day of May, 1902, at the office of the Commission to the Five Civilized Tribes in the town of Muskogee, Indian Territory, introduce testimony tending to disprove the right of the said Rachel Martin to enrollment as a Cherokee Freedman. The applicant has this day, to wit the 20th day of May, 1902, been called, and fails to respond either in person or by attorney.

MR. HASTINGS: The Cherokee Nation asks that the testimony of H. C. Harford, taken in the case of Freedman Doubtful 790 be introduced and made a part of the record in this case.

COMMISSION: The request of the Nation will be complied with and the testimony filed.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 8th day of July, 1902.

J. R. Kester
Notary Public.

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W. H. K. K. K. K.

Department of the Interior,
Commission to the Five Civilized Tribes,
Cherokee Land Office,
Tahlequah, I. T., May 7, 1904.

In the matter of the application of RACHEL RUCKER for the enrollment of herself and her children, LUTHER and JOHN MARTIN, as Cherokee freedmen.

SUPPLEMENTAL TESTIMONY.

RACHEL RUCKER, being duly sworn and examined by the Commission, testified as follows:

- Q What is your name? A Rachel Rucker.
- Q How old are you? A I can't tell; I don't know.
- Q Are you a hundred? A No, I'm in my eithties I guess.
- Q Don't you think you're about 53? A I am more than 50.
- Q Have you got a son named Luther? A Yes sir.
- Q And one named Jehn? A Yes sir.
- Q What is your postoffice? A Walnut.
- Q Do you claim to be a Cherokee freedman? A Yes sir.
- Q Have you ever made application for enrollment? A Yes sir.
- Q What was your name then? A Martin.
- Q Have you married since you were enrolled? A About a year ago.
- Q When were you married? A Last April a year ago.
- Q Whom were you married to? A Joseph Rucker.
- Q You and he living together now? A Yes sir.
- Q Is he a Cherokee freedman? A No sir.
- Q This oldest boy of your, Luther, is an incompetent, isn't he? Not able to attend to his own business? A No sir, he's fittified.
-

Mabel F. Maxwell, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she correctly recorded the supplemental testimony in this case, and that the above and foregoing is an accurate and complete transcript of her stenographic notes thereof.

Subscribed and sworn to before
me this 9th day of May, 1904.

Mabel F. Maxwell

Simon R. Wainwright

Notary Public.

SECRET

Enclosed for the Bureau are two copies of the report of the
Special Agent in Charge, New York, dated 10/10/50, and
a copy of the report of the Special Agent in Charge, New York,
dated 10/10/50, and a copy of the report of the Special Agent in Charge,
New York, dated 10/10/50.

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1. I am enclosing herewith a copy of the
report of the Special Agent in Charge, New York,
dated 10/10/50.

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report of the Special Agent in Charge, New York,
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report of the Special Agent in Charge, New York,
dated 10/10/50.

7. I am enclosing herewith a copy of the
report of the Special Agent in Charge, New York,
dated 10/10/50.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., JULY 16, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of RACHEL MARTIN, ET AL., as Cherokee freedmen.

It appears that on June 15, 1904, the applicant and the attorney for the Cherokee Nation were advised that an opportunity would be given each of them to appear before the commission at its offices in Muskogee, Indian Territory, on July 15, 1904, and introduce further testimony touching the points mentioned in said letter. There being no appearance on said date on behalf of the applicants, this case was continued until this the 16th day of July, 1904, when the following testimony was introduced on behalf of the Cherokee Nation.

APPEARANCES:

Applicant by her agent, Louis T. Brown.
Cherokee Nation by its attorney, James S. Davenport.

L. B. PARAMORE, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A L. B. Paramore.
Q How old are you? A 46.
Q What is your postoffice address? A Ottawa, Kansas.
Q Are you a citizen of the United States? A Yes, sir.
Q Do you know the applicant in this case, Rachel Martin, who has applied to be enrolled as a Cherokee freedman? A Yes, sir.

By Mr. Davenport:

- Q You say you know Rachel Martin? A Yes, sir.
Q Where did you know her? A In Ottawa.
Q With whom was she living at that time? A When she first came to Ottawa she ran off and came there with William Bean; she was the wife of Ben Bean and run off with Ben's brother, and come to Ottawa, and Ben followed them and licked the whey out of him; and she left both of them and lived with another man.
Q Who? A Alex Strodger.
Q When did you first get acquainted with her? A There in the fall of 1866 or the spring of 1867.
Q How long did she remain there in and about Ottawa? A In the neighborhood of five years.
Q You say you knew Ben Bean while he was there? A Yes, sir, the Beans lived in Lawrence, but they were at Ottawa for some considerable time after this trouble.
Q Did she go by any other name other than Rachel Martin or Bean?
A She didn't go by the name of Martin while she was there, and I think she married Martin there in Ottawa. John Martin, he was sent to the penitentiary from Garnett, Kansas, and he was sent there for five years and served about three and then he came to Ottawa and I think they were married there; they went away from there.
Q About what year do you think she left there? A I think in the summer of '72.
Q You don't know where she went after that time? A I think to the Territory; I don't know.
Q Do you know whether or not she had any children with her there at Ottawa? A I don't remember in regard to that.
Q How far is Lawrence from Ottawa? A 27 miles.

By Mr. Brown:

Q You say Rachel Martin had some children? A I don't know.

Q Where was it you knew her in Kansas? A Ottawa.

Q The Rachel Martin you knew married a fellow by the name of John Martin? A I don't know that she did; that is my recollection.

Q You are as positive about that as you are about anything else you say? A No, I am not.

Q You are positive that the Martin you speak of is named John?

A Yes, sir.

Q What is Ben Bean's brother's name? A William.

Q Did he have any other brothers? A Not that I know of.

Q What year did Rachel Martin come to Ottawa? A In the fall of '66, or the Spring of '67.

Q How do you fix the date? A It is kind of a town history. The circumstance was her running off with her brother-in-law, and the man coming back there and thrashing his brother, and she deserted both of them and run off with another man, and I looked it up to refresh my mind.

Q Where did you look? A In the town history.

Q You haven't a copy of the town history? A No, sir, they had a fight and they put that into the history, some of the old settlers made.

Q All you know about this woman coming there, Mr. Paramore, is what you read in this book? A No, sir, that is what I fixed my exact time by.

Q And you haven't a copy of that book with you? A No, sir.

Q When did you see a copy of that book last? A Last Wednesday.

Q Do you know where the Rachel Martin who is the applicant in this case was in the early fall of 1866, just prior to the time you first met her in Ottawa, Kansas? A No, sir, I didn't know anything of her until she came and nothing of her after she left.

Q And the only way you fixed your date as to the time she came to Ottawa is by this town history? A Yes, sir.

Q Do you know whether the Rachel Martin about whom you are testifying is the same person as the Rachel Martin who is making the application in this case? A No, sir, I don't know.

Q You are positive that the Martin you refer to was named John and not Nelson Martin? A John Martin is what he went by; it might have been J. N. Martin.

Q You have been a witness in a great many cases down here, haven't you? A Only two.

Q Haven't you been a witness in 10 or 12? A No, sir.

Q You have taken quite an active part in assisting the Cherokee Nation in gathering testimony around Ottawa, haven't you? A Not very much.

Q Well, some? A Yes, sir, some little.

Q You sorter act as one of the agents up there? A No, sir.

Q You did a year or two ago, didn't you? A No, sir, I acted for some of the colored people down here, but not the Nation.

By Mr. Davenport:

Q You know the Rachel Martin about whom you are testifying was the Rachel Martin who had been living with one of the Bean boys? A Yes, sir.

Q Do you remember his name? A Ben Bean, the one she was married to.

Q When she came off down from Lawrence to Ottawa which one?

A William.

Q Which one was it come and give William a licking? A Ben.

Q And she went off after that with---? A With Alex Stredder.

By Mr. Brown:

Q How do you fix the date as to when these people left there? A The way I fixed my date principally is this: She was a patient--patient of my father's who was a physician. She was living with

Alex Stredder and as soon as she got well she went away, and I took the books, and Alex Stredder says it is the same party.

Mr. Brown: I move that the last answer be stricken from the record.

Commission: Motion noted.

Q You got this '72 from another book did you? A Yes, sir.

Q That is all the way you know it? A Yes, sir.

Q You didn't make the entry yourself? A No, sir.

Q You don't know whether it is correct? A I have a pretty good idea.

Q Do you know it of your own personal knowledge? A No, sir.

Q Will you swear it? A Yes, sir, because my father put it there and it was in his handwriting.

Q Would you swear that the date, itself, is correct? A No, sir, I didn't see it put there.

By Mr. Davenport:

Q You say it was your father's handwriting? A Yes, sir.

Q Is he living? A No, sir, he is dead.

Q How long has he been dead? A Six years.

By Mr. Brown:

Q Where is that book? A At home.

Q In Ottawa, Kansas? A Yes, sir.

(Continued until July 28, 1904).

(July 28, 1904, no appearance upon part of applicant).

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H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this the 16th day of August, 1904.

Charles H. Sawyer

Notary Public.

FILED
DEC 27 1904
COMMISSION TO FIVE TRIBES.

Cherokee F D-361.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MEMPHIS, I. T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Rachael Martin et al., as Cherokee Freedmen.

It appears that on August 10, 1904, the applicant and the representatives of the Cherokee Nation were duly notified that on September 20, 1904, the applicant would be permitted to appear before the Commission and introduce further testimony in the above entitled and numbered cause.

APPEARANCES:

Applicant appears in person and by attorneys, Blus & Bulger.
Cherokee Nation by its representative, J. S. Davenport.

RACHAEL RUCKER, being first duly sworn, testified as follows:

BY THE COMMISSION:

- Q What is your name? A Rachael Rucker now.
Q Formerly Rachael Martin? A Yes sir.
Q How old are you? A I don't know.
Q About how old? A About somewhere in 60 I think.
Q What is your post office address? A Walnut.

BY MR. BULGER:

- Q Are either of your parents on the 1860 roll? A Not that I know of.
Q Were you the slave of a Cherokee citizen at the commencement of the rebellion? A Yes sir.
Q Who was your owner? A Dannenberg.
Q Are you the same person who applied to be enrolled as a Cherokee freedman under the name of Rachael Martin? A Yes sir.
Q Where did you first apply? A At Chelmsa.
Q Are you the mother of Luther and John Martin? A Yes sir.
Q Who is the father of Luther Martin? A John Martin.
Q Who is the father of John Martin? A John Towers is his name when I lived with him.
Q Is the father of Luther Martin and John Martin the same party?
A No sir.
Q You have been married then more than once? A Yes sir.
Q Were you and John Martin married before you and this John Towers were married? A Yes sir.
Q Was John Martin a Cherokee Freedman? A Yes sir.
Q Was he a slave of a Cherokee at the commencement of the rebellion?
A I don't know.
Q Was he a citizen of the Cherokee Nation? A He had been but I don't know nothing much about him before the war.
Q Was John Towers a slave of a Cherokee citizen at the commencement of the rebellion? A Yes sir, it seems to me like he was on the '60 roll.
Q You think he was on the 1860 roll? A If I mistake not I think he is.
Q John Towers is the father of John Martin, is he? A Yes sir.

The 1880 roll examined and neither John Martin, father of the applicant Luther Martin, nor John Dowers, father of the applicant John Martin, can be identified thereon.

- Q You say that you was the slave of one Dannenberg at the commencement of the rebellion? A Yes sir.
- Q Did you go out of the Cherokee Nation during the rebellion? A Yes sir.
- Q Where did you go? A Went to Kansas.
- Q What year did you go to Kansas? A During the war, I don't know what year.
- Q What part of Kansas did you go to? A Ottawa.
- Q When did you return to the Cherokee Nation? A '66.
- Q To what part of the Cherokee Nation did you return? A To Grand River.
- Q Have you lived in the Cherokee Nation ever since you returned? A Yes sir.

BY MR. DAVENPORT:

- Q You say you went to Ottawa, Kansas, during the war? A Yes sir.
- Q Were you married then? A Yes sir, I wasn't married but I had a husband, we didn't marry them days.
- Q Who was your husband then? A Ben Bean.
- Q Who did you go to Kansas with? A Ben Bean.
- Q Any one else? A The soldiers.
- Q You lived at Ottawa? A Yes sir.
- Q How long did you live there? A About a year I reckon.
- Q Then what did you do? A Come back down in here.
- Q Who came back with you? A John Curry and Henry Grayson.
- Q And where place did you come when you came back to the Cherokee Nation? A Thomas Mayfield's.
- Q You say there was only those two parties come back with you? A Yes sir.
- Q Where was Thomas Mayfield living at the time you came to his place? A He was living in Saline District on Grand River.
- Q How far from the Orphan Asylum? A I don't know how far it was.
- Q What Cherokees or freedmen live near him when you came back? A I don't know who it was, some Indian.
- Q Was you a grown woman at that time? A I don't remember, I can't call his name though, Twenigh, I believe it was.
- Q Who else? A Wolfe.
- Q Who other colored people did you find down there at the time? A Beans and Mayfields.
- Q Which one of the Beans? A Cousin Sandy.
- Q Which one of the Mayfields? A Thomas Mayfield.
- Q Thomas Mayfield had preceded you and returned to the Cherokee Nation before you got back then? A Yes sir.
- Q Was any of the rest of the Mayfields there? A Yes sir, his wife and son.
- Q Was Charlie Mayfield there? A Yes sir.
- Q Charlie, his son? A Yes sir.
- Q How far was that place you returned to from the old Joe Martin place in Saline? A I don't know, about 8 or 10 miles I guess so far as I know, I don't know exactly.
- Q You don't know what year it was you came back do you? A It was in the fall of '66, they tell me.
- Q How did you travel when you came back? A In a wagon there was no trail running then.
- Q You came from Ottawa to what place? A I don't remember the town.
- Q Did you go to any other town before you came to the Cherokee Nation? A I don't know.
- Q Where house did you come to? A Mayfield's.
- Q Thomas Mayfield? A Yes sir.

BY MR. BULGER:

Q Luther and John are both your children, are they? A Yes sir.

NICKEY MAYFIELD, being first duly sworn, testified as follows:

BY THE COMMISSION:

Q What is your name? A Nickey Mayfield.

Q What is your age? A I don't know exactly, I reckon about 70 some odd.

Q What is your post office address? A Spavinaw.

BY MR. BULGER:

Q Were you the slave of a Cherokee at the commencement of the rebellion? A Yes sir.

Q Are you a recognized citizen of the Cherokee Nation? A That is what they call me.

Q Are you on the 1850 roll? A That is what they tell me, I never have seen it.

Q Did you know Rachael Backer the principal applicant in this case, at the time of the rebellion? A Yes sir.

Q Did you know her before the rebellion? A Yes sir.

Q Was she a slave at that time? A Yes sir.

Q Who was her owner? A I would call the name right now--

Q Was his name Dannenberg? A Dannenberg, yes sir.

Q Did she go out of the Cherokee Nation during the rebellion? A I think she went out when they took us out, she didn't go with me.

Q When was the first time you saw Rachael Backer after the close of the war? A I have been seeing her most all of the time.

Q Where did you see her the first time after the close of the war?

A I don't recollect where it was, the first time.

Q Was she ever at your home shortly after the war? A Yes sir.

Q When was the first time you remember of her being at your home?

A I can't recollect that there, but she was always backwards and forwards to my home.

Q Do you know where she was in 1866? A She was at my house just before Christmas.

Q In 1866? A Yes sir.

Q When did you return to the Cherokee Nation after the war? A I returned back in September, 1866, and between that and Christmas, while they were fixing up for Christmas, she come down from somewhere.

Q Where was your home at that time? A Here on Grand River in the Cherokee Nation, yes sir, where I am living now, not at the same house about four miles from where I live now.

Q How long did she remain at your home at that time? A Quite a while, she didn't stay right there all of the time, I didn't pay any attention to the time.

BY MR. DAVENPORT:

Q You and the applicant Rachael didn't go to the same place in Kansas during the war? A We didn't go at the same time, I went with the troops, and I don't know how she went.

Q To what place did you go? A To Fort Scott.

Q With whom? A With the troops.

Q Who did you return with? A My husband.

Q Who was he? A Thomas Mayfield.

Q Is he dead or alive? A He was living when I come away, just is and that is all.

Q Who else came in your crowd when you come to the Cherokee Nation?

A Quite a crowd of us, several of them Bean boys.

Q Any one else besides the Beans? A Nelson Martin.

Q Any one else? A A man they called Adam.
 Q Adam What? A I don't know.
 Q Was Dave Martin, that was at one time the husband of Rachael the applicant? A Yes sir.
 Q You and your husband didn't come back with Rachael and her husband, did you? A No sir.
 Q You was living with Thomas Mayfield was you when the war closed, and come back with him to the Nation? A Yes sir.
 Q He is not on the 1880 roll is he? A No sir, but I don't know why.
 Q He is on the doubtful roll isn't he? A I think so.
 Q Don't you know he is? A I couldn't be positive, he goes by that name, the doubtful.
 Q Has he any children at home with him now? A He sir aint got no children living here but Charlie.
 Q Charlie Mayfield? A Yes sir.
 Q On the doubtful roll to is he? A Yes sir.
 Q Has Charlie got any family? A Yes sir.
 Q What is his wife's name, Maggie? A They call her Maggie her name is Peggie.
 Q Who was living near you when the applicant and her husband came to your place? A Mr. Clark's father-in-law.
 Q Mr. Scraper? A Yes sir old man Scraper and a man by the name of Wolfe.
 Q You are positive that Mr. Scraper was living there near you when Rachael Barker returned with her husband from Kansas after the war? A Yes sir.

BY MR. BULGER:

Q Was Rachael married when she came to your place in 1866? A I don't know she was living with my brother.
 Q What was his name? A Ben Bean.
 Q To whom did you belong before the war? A Mayfield.
 Q How far did Mayfield's live from Dannenberg, do you know? A Must have been about 30 or 40 miles, I lived down close to Fort Smith about five miles, and they lived up about Evansville.
 Q Were you acquainted with Rachael? A Yes sir, I have been acquainted with Rachael ever since she was a girl.
 Q Did she have any children when she was at your place in 1866?
 A One.

BY MR. DAVENPORT:

Q What makes you remember it was 1866 you say she came there?
 A It was talked about so much I reckon. What first put us to talking about '66, the white people heard about how things were going here, said if we wanted our rights we had better come.
 Q What time did you and your husband come back? A September.
 Q You had established a place and gone to house keeping before Rachael came? A Yes sir, but that would not have been if we had not bought a place.

BY THE COMMISSIONER:

Q Did Rachael Martin have some children when she came to your house? A Had one.
 Q What was its name? A Ferriby.
 Q What is her name now? A Landrum.
 Q Ferriby Landrum? A Yes sir.
 Q How old was Ferriby when they come? A Small.
 Q About how old? A About five years old, walking all about, I can't remember anything like I used to, things come and go in my mind.
 Q You remember she was there in 1866 with this child and her husband? A Yes sir.

BY MR. DAVENPORT:

Q You say Ferriby was a child when they came to your house that is now a Landrum? A Yes sir.

Q Is she the wife of Sam Landrum? A Yes sir.

Mr. Davenport: We ask the Commission to refer in this decision to the case of Ferriby and Sam Landrum, Freedmen R-223, formerly Freedmen D-292.

BY MR. BULGER:

Q Do you know Luther Martin, son of Rachael? A Yes sir.

Q Do you know John Martin? A Yes sir.

Q They are both recognized as children of Rachael Rucker? A Yes sir.

CHARLIE MAYFIELD, being first duly sworn, testified as follows:

BY THE COMMISSION:

Q What is your name? A Charlie Mayfield.

Q How old are you Charlie? A I am about 52 I suppose, I was born in '52.

Q What is your post office address? A Spavinaw, I. T., Saline District.

Q What relation are you to Wacey Mayfield, who has just left the stand? A She is my step-mother.

BY MR. BULGER:

Q Was you a slave of a Cherokee citizen at the commencement of the rebellion? A Yes sir.

Q To whom did you belong? A To Walker and John Mayfield.

Q Did you go out of the country during the rebellion? A Yes sir.

Q To what part of the country was you taken? A Fort Scott, Kansas.

Q Did you return to the Cherokee Nation, Charlie, after the rebellion? A I did.

Q To what part of the Cherokee Nation did you return? A Saline District, Cherokee Nation.

Q What year? A 1866.

Q About what month? A Along somewhere in September.

Q Did your parents build a place there or buy one already built?

A My father came to the Cherokee Nation, bought a place and came back to Kansas and fetched me and my mother and the rest of the family.

Q Fetched you down when? A In the fall of '66.

Q Did you continue to live at this place in the Cherokee Nation for sometime? A Yes sir about thirty years.

Q Are you acquainted with Rachael Rucker the principal applicant in this case? A Yes sir.

Q Was you acquainted with her before the war? A No sir.

Q When did you first meet this woman? A Time of the war, '64.

Q Where? A Fort Scott, Kansas.

Q Where did you first see her in the Cherokee Nation? A At our place.

Q In what year? A In the fall just before Christmas in '66.

Q Charlie, it is a good while since 1866 how does it come that you can remember that so distinctly? A The reason why I remember '66 so well, it was talked so much amongst the people in the country about the return of the slaves back to the Cherokee Nation. It was the custom talk that made impress on my mind as being '66, just hearing the people talk about '66.

Q Then she came to your father's home in 1866, in the winter?
 A Yes sir she came there that year was so much talk about being '66.
 Q Is she a relative of yours? A No sir.
 Q Is she a relative of your step-mother? A No more than sisters-in-law, used to be.
 Q Married your step-mother's brother? A Yes sir, Ben Bean.
 Q Have you known this woman since 1866? A Yes sir.
 Q Continuously? A Yes sir, been here all the time.
 Q Is she a resident of the Cherokee Nation now? A Yes sir she is.
 Q Has she been a resident of the Cherokee Nation ever since 1866?
 A Yes sir, often and on resident of the Cherokee Nation ever since '66.

BY MR. DAVENPORT:

Q Your father's name was Tom I believe? A Yes sir.
 Q You went to Fort Scott? A Yes sir.
 Q During the war? A Yes sir.
 Q And the applicant went also with you to Fort Scott? A Yes sir.
 Q She went with you to Fort Scott too, did she? A No sir.
 Q Where was it you saw her? A At Fort Scott.
 Q Where did she go during the war? A She was at Fort Scott where I left her.
 Q When was it you first saw this applicant at Fort Scott? A It was during the war.
 Q Was she living there? A Yes sir.
 Q Where was you living at that time? A We were just come from the south and went to Fort Scott.
 Q How long did you continue to live there with the applicant or near her? A We lived there until the spring Abraham Lincoln was assassinated, '66 I suppose.
 Q Then what did you do? A We went from there to another town, Garnett, Kansas.
 Q Then how long did you live there? A One year, we called it a year.
 Q You left the applicant at Fort Scott? A Yes sir.
 Q When did you next see her, before or after your father had moved back to the Cherokee Nation? A Next time was when she come back to the Cherokee Nation.
 Q After your father had moved back? A Yes sir.
 Q Your father, is he living? A Yes sir he is living.
 Q He is not on the 1880 roll? A No sir.
 Q You are not on the 1880 roll? A No sir.
 Q Nor on the 1896 roll, are you? A No sir.
 Q What place was it your father had bought before you come back to the Cherokee Nation? A The place was known as the Adair place.
 Q Who was living in that neighborhood when you got back Charlie?
 A A family by the name of Wolfe and Scrapers.
 Q Was the old man Scrapper living there? A Yes sir.
 Q Where was George Clark living? A Down the river below there.
 Q He was living there when your father came back to the Cherokee Nation? A That was what was always said.
 Q Did you see George in the Cherokee Nation? A I seen him passing, it was told to me it was him.
 Q He was a son-in-law of old man Scrapper? A Yes sir.
 Q How far was this place from the Scrapper place where you was living? A About three miles.
 Q How far from the old Joe Martin place? A It was about 3 miles.
 Q Who was living on the Martin place when you come back? A Scrapper
 Q That man Scrapper was living there when you and your father came back to the Cherokee Nation? A Yes sir.

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- Q You and your father came back to the Cherokee Nation prior to the time that this applicant, Rachael Rucker did? A Yes sir.
- Q You were back there located on a place and going ahead with your work before she and her husband came? A Yes sir, we came in the fall and they came on or before Christmas.
- Q How do you know it was on or before Christmas? A As near as I can recollect.
- Q But neither of you are on the 1880 roll? A No but my mother, the woman my father brought with me.
- Q I am asking you about that, I am asking you if you are on the 1880 roll? A I said neither one of us was't.
- Q Who came back to the Cherokee Nation with Rachael Rucker and her husband, if any one? A I never seen any one that came to our house but Henry Grayson and John Curry, came right on and they said they came along.

BY MR. BULGER:

- Q Your father's name is Charlie Mayfield? A Yes sir, Thomas Mayfield.
- Q He came to the Cherokee Nation for the first time after the war in September of 1866? A Yes sir.
- Q Had he been down here previous to that time looking up a place? A Yes sir.
- Q When? A The summer of '66 in August.
- Q Did you and your step-mother by yourselves, come down with him in September of 1866? A Yes sir.

BY MR. DAVENPORT:

- Q You was not with him in the summer when he came? A No sir.
- Q What time in August was it when he came? A I don't know exactly what time of the month.
- Q Did he come for the purpose of getting a place so he could get his rights? A Yes sir.
- Q And you don't know what time in August? A No sir, not positively.
- Q Was it the first or last of August? A I think it was along about the first I guess, a little after the celebration, that is about the 4th of August.
- Q He came for the purpose of getting lands and establishing his rights? A Yes sir.
- Q About the first of August, 1866? A Yes sir.

BY MR. BULGER:

- Q Previous to his coming to the Cherokee Nation had you folks learned about the Treaty that had been made between the Cherokee Nation and the United States? A Yes sir, we learned it by the white folks reading papers and telling us about it. That if we didn't come to the Cherokee Nation we would not have no homes and they adv'd of us to come to the Cherokee Nation immediately.
- Q Reading in the newspapers was it? A Yes sir.
- Q How long had this Treaty been made before your father came here to establish this place? A I don't know.
- Q Did you folks understand that you must come back right-away in order to establish your rights? A Yes sir.
- Mr. Davenport: We want to call the Commission's attention to Cherokee Freedman cases of Charles Mayfield, Cherokee F D-202.

BY THE COMMISSION:

- Q You are not on the 1880 roll? A No sir.
- Q Your father is not on the 1880 roll? A No sir.
- Q For your mother? A No sir she died about in '67 in the Cherokee Nation.

- 2--
- Q How old were you when you first saw Rachael Rucker after the war? A I don't know Honorable Judge, how old I was at that time I never--
- Q You was a good big boy? A Yes sir, I must have been 13 or 14 years old.
- Q She came there and brought Ferriby her child? A No sir she did not, Ferriby was born there after she came as near as I can tell.
- Q What was the name of the child she brought with her? A She never brought any with her as I know of, the one she had in the north died.
- Q Where did it die? A At Fort Scott.
- Q Was your step-mother living there where you was? A Yes sir.
- Q If she testifies that this Ferriby was a child four or five years of age at that time is she mistaken about it? A Yes sir she must be undoubtedly because that child wasn't born until she come.
- Q You are sure of that? A Yes sir.
- Q What rolls of the Cherokee Nation are you on, Charlie? A I don't know that I am on any except the Wallace and Kern-Clifton rolls.
- Q The Cherokee Nation has always claimed that you didn't return in time? A Yes sir.
- Q This Commission rejected you didn't they on the ground that you didn't come back here in time? A Yes sir.

RACHAEL RUCKER, being recalled, testified as follows:

BY THE COMMISSION:

- Q How many times have you been married? A Three times.
- Q When was you married to your first husband? A He and him wasn't married at all I told you that awhile ago, we only took up together in slavery time.
- Q Who did you marry the second time? A I married John Martin.
- Q Where did you marry him? A Here in the nation.
- Q Did you have a marriage license? A No sir didn't get no license.
- Q When was you married to John Martin? A We were not married there, the two first Martins, I wasn't married to them.
- Q Tell me one of your husbands that you actually married? A That was John Towers.
- Q Where did you marry him? A Here in the nation.
- Q In what nation? A In the Indian Nation.
- Q Cherokee Nation? A Yes sir.
- Q When did you marry him? A I don't know how long it has been, about 12 or 14 years ago.
- Q Did you get a marriage license? A No sir wasn't no license and we didn't get no license.
- Q You just went before a preacher did you? A Yes sir.
- Q Who married you and John Towers? A Uncle Jesse Rowe. He is dead and gone.
- Q You just went before a preacher and was married? A Yes sir.
- Q Did he give you a certificate? A No sir.

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H. W. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 27 day of December, 1904.

Charles E. Sawyer

Notary Public

Cherokee Freedmen D-381.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., November 14, 1904.

SUPPLEMENTAL PROCEEDINGS in the matter of the application for the enrollment of Rachel Martin, et al., as Cherokee Freedmen.

On October 14, 1904, the applicant was notified by registered mail, and on October 28, 1904, the attorneys for the Cherokee Nation were notified by mail, that the application of Rachel Martin for the enrollment of herself and minor children as Cherokee freedmen, would be taken up by the Commission to the Five Civilized Tribes at its offices at Muskogee, Indian Territory, on the 14th day of November, 1904, at which time an opportunity would be given both the applicant and the attorneys for the Cherokee Nation to introduce any testimony they might desire affecting said application, at which time the case would be taken up for final consideration. Receipt has been acknowledged of the Commission's letter.

Now on this 14th day of November, 1904, this cause coming on to be heard pursuant to said notice, said applicant being called appears by her attorneys, Blue & Bulger, and the Cherokee Nation by its attorneys, Bell, Hastings & Dawsonport, submit this case upon the evidence now of record.

---ooOee---

H. M. Vance, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 14th day of November, 1904, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said date.

H. M. Vance

Subscribed and sworn to before me this 15th day of December, 1904

Charles H. Smyer
Notary Public.

1888-40

FILED
FEB 10 1905
COMMISSION TO FIVE TRIBES.

Cherokee Freedman D-381.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., FEBRUARY 4, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of RACHEL MARTIN ET AL., as Cherokee Freedmen.

It appears from the records of the Commission that on January 12, 1905, the applicant, her attorneys, and the attorneys for the Cherokee Nation were notified by letter that they would be permitted to appear before the Commission at its offices in Muskogee, Indian Territory, and introduce testimony touching the points mentioned in said letter, on February 1, 1905.

It further appears that on February 1, 1905, the applicant appeared by her attorneys, Blue & Bulger, and the Cherokee Nation by its representatives, L. B. Bell and W. W. Hastings, and by agreement this cause was continued to February 4, 1905.

APPEARANCES:

Applicant appears by her attorneys, Blue & Bulger.
Cherokee Nation by its representative, J. S. Davenport.

GEORGE W. CLARK, being first duly sworn, testified as follows:

BY MR. BLUE:

- Q What is your name? A G. W. Clark.
- Q Are you the gentleman they call Judge Clark? A Yes sir, some give me that title.
- Q Where do you live? A At Vinita.
- Q How long have you resided there? A I have resided there 15 or 20 years in Vinita, I have been a resident of the country all my life.
- Q You were born in the Indian Territory? A Yes sir, in Delaware District in 1842.
- Q Have you ever had a residence in any other place? A Yes sir I have lived in Saline and Cooweescoowee District for the last 30 or 40 years.
- Q Have you ever resided outside of the Cherokee Nation? A No sir.
- Q Are you on the Cherokee rolls? A Yes sir all of them.
- Q Do you know Rachel Martin, sometimes called Rachel Bucker, who is the applicant in Cherokee Freedman D-381? A Yes sir.
- Q Where does she reside? A She resides in Saline District right south of my place.
- Q In the Cherokee Nation? A Yes sir.
- Q Do you know her children? A Yes sir I know the two children she has got with her.
- Q What are their names? A One goes by the name of Luther Martin and the other John Towers.
- Q Did you know her at the time these children were born? A I knew her about the time she lived there in the neighborhood when John Towers was born.
- Q With whom did she live at the time John Towers was born? A She married a colored man by the name of John Towers and lived with him as man and wife until they had this child.

- Q Do you know whether or not this man that she married was a Cherokee freedman? A Yes sir he was a Cherokee freedman.
- Q Do you know whether he was on any roll of the Cherokee freedmen?
- A I don't know whether he was or not he ought to have been on all the rolls.
- Q You are not able to state that? A No sir, I don't know, he is from Delaware District.
- Q Did you know the grand-father of this boy John Towers? A His grand-father.
- Q Yes? A I know his father's name was John, I knew him when I was a boy like.
- Q Was John Towers the slave of a Cherokee citizen at the commencement of the war? A Yes sir he was.
- Q To whom did he belong? A He belonged to some full bloods up there in Delaware District, it seems to me like Muskrat, she afterwards married a man by the name of Arch Landrum.
- Q That was the mother of the father of this boy? A Yes sir.
- Q Do you know whether or not she remained in the Cherokee Nation or not during the war? A I think she went to Kansas, but they come back in the fall of 1865 and lived on old man Daniels place about a mile of me and they ~~exchanged~~ made a crop in 1866.

BY MR. DAVENPORT:

- Q What is the parties name? A Winnie Landrum and Ott Landrum and his father was named West Towers.

BY MR. BLUE:

- Q What was the name of the mother of John Towers who was the father of the John Towers referred to in this application? A She ought to be on the roll by the name of Winnie Landrum, she was the wife of Arch Landrum, Delaware District.
- Q If her son John Towers is the father of this John Towers here by what name would he appear on the roll? A As John Landrum, that is what we knew him for a long time, he was quite a boy after the war had ceased.
- Q Was he afterwards called by the name of John Towers? A Yes sir afterwards he was called by the name of John Towers by some, but I mostly knew him as John Landrum, old Arch's son, I knew he was his step-son.
- Q You say when he lived with this woman Rachel Martin as her husband he was known by the name of John Towers? A Yes sir some called him John Towers.
- Q What is the name of the other son of Mrs. Rachel Martin or Rucker? A His name is Luther Martin, he is kind of an idiot, insane like, he is elder than this one.
- Q Do you know anything about his parentage? A No sir nothing only his mother, I knew his father but he was killed, but I don't know nothing about the time he returned, he used to belong to old Uncle Jos Martin before the war.
- Q He was a slave of a Cherokee citizen? A Yes sir, he belonged to the Martins.
- Q Do you know whether or not he was enrolled as a Cherokee Freedman? A No sir.
- Q Do you know anything about the time he returned to the Cherokee Nation? A Yes sir he returned after the time expired about 4 or 5 years, lived there in the neighborhood for sometime and was killed there in the neighborhood and she commenced living with this John Towers and this son was born then.

BY MR. DAVENPORT:

Q Was Rachel Martin a slave at the breaking out of the war?

A Yes sir, I think she belonged to the Dannenbergs awhile.

Q ~~At the~~ time of the war do you know to whom she belonged? A I do not know.

Q Before the war she was a slave of a Cherokee and at the breaking out of the war do you know who she belonged to? A No sir I do not.

Q When was the first time you saw her after the war? A Along in the 30's, she came in the neighborhood where I was and was living with John Martin.

Q Do you know who John Martin belonged to when the war began?

A No sir I do not know.

Q You do not know whether he belonged to a Cherokee citizen or not? A No sir.

Q John Martin didn't come back into the Cherokee nation for several years after 1866? A Yes sir several years.

Q And John Towers was a slave of a Cherokee citizen and always remained in the country? A No sir not always remained in the country.

Q He came back within the time? A Yes sir, I tell you how I recollect I moved from one place close to Uncle Robert Daniels in the fall of 1866 and they had made a crop on his place that year and this John was with old Arch, his step-father.

Q John Towers that was there then was the father of this John Towers in question? A His name was John, they mostly called him Martin.

Q Arch Landrum married his mother after that? A Yes sir they were living together as man and wife and had this fellow there with them and after he come home they turned the place over to him and moved down right below the field and lived there for several years.

BY THE COMMISSION:

Q How old a man would John Towers be if he was living now? A Well he was a boy and about along in his teens then.

Q When the war broke out? A When I went back there, when I got acquainted with him in 1865, he was in his teens then, that would make him 52 or 53 years old along in the 50's.

Q And did you say he was owned by what is your knowledge to who his owner was? A Just exactly who his mother was owned by before the war I just can't recollect, it seems to me it was some of the Muskrats, it was what we called an Indian Negro, she talked one language as good as she could another, that is my understanding about it, she had been living in the country all her life.

Q Do you know who the father of John Towers was? A This John Towers that is in question.

Q He the father of that? A He was supposed to be a yellow man that belonged to a citizen by the name of Ellis Towers, and his name was West Towers.

Q His mother's name was what? A His mother name was Winnie Landrum when I knew her, I think she belonged before the war to some Cherokees that lived on the creek right close to old man Towers, it seems to me it was the Muskrats.

Q Do you think that the mother of John Towers, whose name you say was Winnie Landrum and her son John Towers could have been owned by Jim Landrum at the commencement of the war? A Yes sir they could have.

Q Why do you think so? A Because it was a family affair amongst the Landrums, the wife of Landrum and the owners of these darkies.

- Q Who was the wife of Jim Landrum at the commencement of the war?
A I think she was a Muskrat.
Q Then this John Towers and his mother Winnie Landrum were ~~was~~ owned in the family of Muskrat or Landrum? A Yes sir.
Q The records of the Commission show that the father of John Towers the alleged ~~of~~ father of the applicant named, is Jerry Towers, do you know whether or not that was the name of the father?
A No sir, I do not know.

BY MR. BLUE:

- Q How close does Mrs. Rachel Martin, sometimes called Rucker, reside to your farm? A On the same section, the lower part of the farm, section 3, township 22.
Q Do you know anything about her health at this time? A Yes sir she is in feeble health, why I know I saw a registered letter from the Commission the other day notifying her to come here and she said she wasn't able to come here, I told her she ought to notify the Commission that she couldn't come.

C A S E C L O S E D.

-----oOo-----

George H. Lessley, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 10th day of February, 1905.

H. H. H. H.
Notary Public.

Cherokee Freedmen D-381.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., November 14, 1904.

SUPPLEMENTAL PROCEEDINGS in the matter of the application for the enrollment of Rachel Martin, et al., as Cherokee Freedmen.

On October 14, 1904, the applicant was notified by registered mail, and on October 26, 1904, the attorneys for the Cherokee Nation were notified by mail, that the application of Rachel Martin for the enrollment of herself and minor children as Cherokee freedmen, would be taken up by the Commission to the Five Civilized Tribes at its offices at Muskogee, Indian Territory, on the 14th day of November, 1904, at which time an opportunity would be given both the applicant and the attorneys for the Cherokee Nation to introduce any testimony they might desire affecting said application, at which time the case would be taken up for final consideration. Receipt has been acknowledged of the Commission's letter.

Now on this 14th day of November, 1904, this cause coming on to be heard pursuant to said notice, said applicant being called appears by her attorneys, Blue & Bulger, and the Cherokee Nation by its attorneys, Bell, Hastings & Davenport, submit this case upon the evidence now of record.

---ooOee---

H. M. Vance, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 14th day of November, 1904, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said date.

H. M. Vance

Subscribed and sworn to before me this 15 day of December, 1904

Charles H. Jarnett
Notary Public.

860

Cherokee Freedmen D 381

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Rachel Martin,
et al., for enrollment as Cherokee Freedmen.

--1--

D E C I S I O N.

THE RECORD IN THIS CASE SHOWS: That, on May 22, 1901, Rachel Martin appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of herself and her two children, Luther Martin and John Martin, as Cherokee freedmen.

It appears from the record herein that on July 10, 1903, the Commission rendered a decision in the matter of the above application, in which all of the applicants were denied the right to enrollment as Cherokee freedmen. Said decision, with the record therein, was remanded to the Commission for further hearing and readjudication. Further proceedings were had in this case at Muskogee, Indian Territory, on July 16, September 20, and November 14, 1904, and on February 4, 1905, a copy of the testimony taken at Tahlequah, Indian Territory, on May 7, 1904, in the matter of this application, being also filed with and made a part of the record herein.

THE EVIDENCE HEREIN SHOWS: That the principal applicant, Rachel Martin, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during said war she went out of the Cherokee Nation; and that she did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitwire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation. The evidence further shows that the applicant, Luther Martin, is the son of the said Rachel Martin and one John Martin, and claims the right to enrollment through both of said parents. The testimony shows that said John Martin was the slave of a Cherokee citizen at the commencement of the

rebellion; that during said rebellion he removed from the Cherokee Nation, but did not return thereto within the time specified in the decree of the Court of Claims above cited.

It further appears that the applicant, John Martin (or Towers), is the son of the said Rachel Martin and one John Towers, whose name appears as No. 3483 upon the partial roll of Cherokee freedmen prepared by this Commission and approved by the Secretary of the Interior on November 16, 1904.

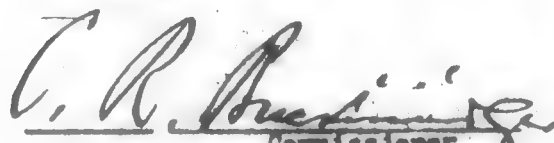
All of the applicants herein are identified upon the Kern-Clifton roll, but neither of them can be identified upon the 1880 authenticated roll or the 1890 census roll of the Cherokee Nation.

IT IS, THEREFORE, THE OPINION OF THIS COMMISSION: That, following the ruling of the Department in the case of Moses Ross (I.T.D. 6056-1904), the application for the enrollment of Rachel Martin and Luther Martin as Cherokee Freedmen should be denied, under the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 498); and that John Martin should be enrolled as a Cherokee Freedman, in accordance with the provisions of said section twenty-one of the Act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


Chairman


Commissioner


Commissioner

Dated at Muskogee, Indian Territory,
this JUN 28 1905

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Rachel Martin for the enrollment of herself and minor children, Luther Martin and John Martin, as Cherokee Freedmen:

D E C I S I O N

The record in this case shows that, on May 22, 1901, Rachel Martin appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and minor children, Luther and John Martin, as Cherokee Freedmen. Further proceedings in the matter of said application were had at Chelsea, Indian Territory, June 1 and 12, 1901, and at Muskogee, Indian Territory, on February 8, March 3, May 20 and 29, 1902.

The evidence shows that the said Rachel Martin was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during said war she was taken out of the Cherokee Nation and did not return thereto until after January 19, 1867.

The other applicants herein have been born since 1866 and are descendants of said Rachel Martin and claim right to enrollment through her. None of the names of the applicants herein are found on the 1860 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the application for the enrollment of Rachel Martin, Luther Martin and John Martin, as Cherokee Freedmen, should be denied under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

Tame Birba

Chairman.

(SIGNED)

I. B. Needles

Commissioner.

(SIGNED)

C. E. Brockinridge

Commissioner.

(SIGNED)

W. E. Stanley

Commissioner.

Muskogee, Indian Territory,

this

JUL 10 1902

Usinta Indian Territory, 12/3/00 4

RECEIVED of the COMMISSION TO TEN FIVE CIVILIZED

TRIMM one copy of the testimony in

Rach

Martin Et of Nat of 20-1904

Blue H P 2
Attorney for Applicant.

Xenith Indian Territory, July 1905

RECEIVED OF THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES

one copy of the testimony in CSO 381

Rachel Martin

Blue and Bulaga
Attorney for Applicant.

F. D. NO. 381

TO THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES:

You are requested to enter STARR & PATTEN of VINITA,
INDIAN TERRITORY, as my sole Attorneys representing me in the matter
of my application for the enrollment of myself and those I represent
as citizens of the Cherokee Nation.

Witnesses to Mark:

Witness
C. A. Smith

Rachel ^{*her*} *Rucker*
Jarvis *Martin*
APPLICANT.

Dated at Vinita, Indian Territory,

this 12th day of November, 1906.

F. D. 381

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on 2/1 day 1902

by delivering a true copy thereof on the

1 day of February A. D. 1902

Given under my hand this
day of 1 A. D. 1902

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the
day of _____, 1902

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

Rachel Martin
on the 1 day of February A. D. 1902
M. C. Maddox

Subscribed and sworn to before me

this 3 day of Feb 1902
Walter H. Martin
Notary Public.

FILED
FEB 4 1902

ACTING CLERK

e

30381

NOTICE!

IN THE MATTER OF the application of Rachel Martin et al
for enrollment as Cherokee Freedmen:

Case No. F. D. 381

To Rachel Martin, Spawmaw, 25.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muscogee 25. Indian Territory, on February 3rd 1902 or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 28th day of January 1902

L. B. Bell
Jas. Dauphant
W. W. Hastings

Attorneys for the Cherokee Nation.

NO. 40381

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT,

I do solemnly swear that I delivered a true copy
of the within notice to Rachel

Martine
on the 23 day of May, A. D. 1902
Same place

Subscribed and sworn to before me this
May 23rd 1902

W. N. Keel
Notary Public.

I, the undersigned attorney for the within named
applicant, hereby accept service of the within notice
on this the _____ day of _____ 190_____

Attorney for Applicant.

I, the undersigned agent for the within named
applicant, hereby accept service of the within notice
on this the _____ day of _____ 190_____

Agent for Applicant.

FILED
MAY 26 1902
TO THE FIVE CIVILIZED TRIBES
FOR THE INTERIOR

ACTING CLERK

NOTICE.

In the Matter of the application of Rachel Martin, Spavinaw, I. T.
for enrollment as Cherokee citizens:

To Rachel Martin, Spavinaw, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes, Cherokee Enrollment Division, in the town of Muskogee, Indian Territory, May 28th, A. D. 1902, at 8 o'clock a. m., or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands at Muskogee, Indian Territory, this _____

No. P. D. 381.

L. B. Bell
M. W. Hastings
Jess. Davenport
Attorneys for the Cherokee Nation.

44 381
F. D. 381

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

Rechel Morton

by delivering a true copy thereof on the
27th day of February A. D. 1902

Given under my hand this 27th
day of February A. D. 1902

Railroad
Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the
..... day of, 190....

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

Rechel Morton

on the 27th day of Feb A. D. 1902

* Subscribed and sworn to before me
this 27th day of Feb 1902

J. S. Smith

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
FEB 28 1902

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Rachel Martin
for enrollment as Cherokee Freedmen:
Case No. F. D. 331
To Rachel Martin, Marvinaw, I. T.:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on March 3rd, 1902., at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Feb. 26, 1902.

L B Bell

*M. W. Hastings
Jas. S. Davenport*

Attorneys for the Cherokee Nation.

GID 381

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19

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Rachel Martin,
Spavinaw, I. T.
Cherokee F-D-361.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

FILED

MAY 22 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date *May 22 1901*
Post Office *Spaniard Ex.*
District *Saline*

1. Name _____ Age _____
Owner's name _____ Citizenship _____
Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____
Mother _____ Citizenship _____

1. Name of wife *Rachel Martin* Age *50+*
Owner's name *Mrs. Samuels* Citizenship *Cherokee*
Year *127* Page *127* No. *3177* District *Saline*

Parents:

Father *Lige Musgrove dead* Citizenship *Cherokee*
Mother *Silba* Citizenship *"*

Names of Children:

2. *Luther Martin* Year *127* Page *127* No. *3177* Dist. *Saline* *25-*
3. *John Martin* Year *127* Page *127* No. *3177* Dist. *Saline* *18+*
6. _____ Year _____ Page _____ No. _____ Dist. _____
7. _____ Year _____ Page _____ No. _____ Dist. _____
8. _____ Year _____ Page _____ No. _____ Dist. _____
9. _____ Year _____ Page _____ No. _____ Dist. _____
10. _____ Year _____ Page _____ No. _____ Dist. _____
11. _____ Year _____ Page _____ No. _____ Dist. _____
12. _____ Year _____ Page _____ No. _____ Dist. _____

Application made by *Mr. 1. Rachel Martin* Stenographer *Green-*

Mr. 2 on 127. Coe as Luther Martin
Mr. 3 " " " " John Towner.

+ Ref - S - 210

COPY.

Charlotte Freed-
man D. 381.

Muskogee, Indian Territory, July 23rd, 1903.

Rachel Martin,

Spavinaw, Indian Territory.

Dear Madam:

There is enclosed herewith a copy of the record of proceedings had in the matter of the application for the enrollment of yourself and your two children, Luther and John Martin as Cherokee Freedmen, together with a copy of the Commission's decision dated July 10th, 1903, rejecting your application.

The decision together with the record of proceedings had in the case has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Neasides.

Commissioner in Charge.

Enc. D. 46.
Register.

COPY.

Cherokee Freedmen
D-381

Muskogee, Indian Territory, July 23, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated July 10, 1903, rejecting the application of Rachel Martin for the enrollment of herself and her two minor children, Luther and John Martin, as Cherokee Freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Woodlee

Commissioner in Charge.

Enc. D-47

COPY.

Cherokee Freedmen
D-381

Muskogee, Indian Territory, July 23, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application of Rachel Martin for the enrollment of herself and her two minor children, Luther and John Martin, as Cherokee freedmen, including the Commission's decision dated July 10, 1903, rejecting said application.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Enc. D-48

Refer in reply to the following:

Land 67641/1903.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

WASHINGTON, Jan. 4, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith for the consideration of the Department, the record of the proceedings before the Five Civilized Tribes Commission, in the matter of the application of Rachel Martin for the enrollment of herself and her minor children, Luther and John Martin, as Cherokee Freedman Citizens of the Cherokee Nation.

On July 10, 1903, the commission rendered a decision in this case, finding from the evidence that said Rachel Martin was a slave of a Cherokee citizen at the commencement of the War of the Rebellion; that during said war she was taken out of the Cherokee Nation and did not return thereto until after January 19, 1867; that the other applicants have been born since 1866 and are descendants of the said Rachel Martin, claiming their right to enrollment through her; that none of the names of the applicants herein is found on the 1880 authenticated roll of the Cherokee Nation; by reason of which findings the Commission is of the opinion that their application for enrollment should be denied under the provisions of Section 21, of the Act of

Congress approved June 28, 1898 (30 Stats., 498).

I have examined the testimony submitted in behalf of these applicants and am of the opinion that the findings of said Commission are supported by said testimony and therefore recommend that said decision be approved by the Department.

Very respectfully,

W. A. JONES,

Commissioner.

WCR-H

I.T.R. 189-1904.

D.C. 18951-1904.

DEPARTMENT OF THE INTERIOR,

LET

WASHINGTON, June 3, 1904.

Commission to the Five Civilized Tribes,
Muskegee, Indian Territory.

Gentlemen:

January 4, 1904, the Commissioner of Indian Affairs submitted the record in the Cherokee freedman case involving the application for the enrollment of Rachel Martin and her children, Luther and John Martin (or John Towers), and recommended that your decision of July 10, 1903, rejecting the application, be concurred in.

You have failed to state whether the name of either of the parents of the principal applicant is on the 1850 roll, and the Department is not informed whether the applicants Luther Martin or John Martin (or John Towers) are or are not entitled to enrollment by virtue of some right in their father.

Assuming that possibly the principal applicant may have married a Cherokee freedman, as she has had several husbands, the question of her right to enrollment as an intermarried Cherokee freedman has not been passed upon. It is deemed advisable to remand the case, to allow the applicants an opportunity to be heard, and for re-adjudication by you. A copy of Indian Office letter is inclosed.

Respectfully,

(Signed) Theo Ryan,

2 inclosures.

Acting Secretary.

Cherokee Freedman
B 261

Muskogee, Indian Territory, June 16, 1904.

Rachel Martin,

Spavinaw, Indian Territory.

Dear Madam:

In the matter of your application for the enrollment of yourself and children as Cherokee freedmen, you are advised that the Commission is in receipt of Departmental letter of June 3, remanding the Commission's decision of July 10, 1903, rejecting your application.

In accordance with instructions contained in the Department's letter you are hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Friday July 15, 1904, and introduce further testimony tending to show whether or not the names of either of your parents are upon the last authenticated Cherokee roll; further testimony as to the identity and citizenship of the fathers of your children, Luther and John Martin, and also further testimony as to your right to enrollment as a Cherokee freedman by intermarriage.

For your information there is herewith inclosed a copy of Departmental letter above referred to.

Respectfully,

Encl. V-40

Chairman.

Cherokee Freedmen
D 361

Muskogee, Indian Territory, June 16, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Rachel Martin and her children as Cherokee freedmen, you are advised that the Commission is in receipt of Departmental letter of June 3, remanding the Commission's decision of July 10, 1903, rejecting said application.

In accordance with instructions contained in the Department's letter, the applicant has this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Friday July 16, 1904, and introduce further testimony tending to show whether or not the names of either of her parents are upon the 1880 authenticated Cherokee roll; further testimony as to the identity and citizenship of the fathers of her children, Luther and John Martin, and also further testimony as to her right to enrollment as a Cherokee freedman by intermarriage.

The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire.

-2-

For your information there is herewith inclosed a copy of the
Department's letter above referred to.

Respectfully,

Encl. V-41

Chairman.

Cherokee Freedmen

D-381.

Muskogee, Indian Territory, August 1, 1904.

William F. Rasmus,

Attorney for Rachel Martin, et al.,

Tahlequah, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of July 21, stating that you have been retained as attorney for Rachel Martin, et al., applicants for enrollment as Cherokee freedmen, and asking that you be furnished with a copy of the entire record of proceedings had in this case.

In reply you are advised that the Commission's records show that on July 23, 1903, there was forwarded to the principal applicant in this case at Spavinaw, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision of July 10, 1903, rejecting said application. You are therefore requested to secure this record from the applicant.

You are further advised that on June 3, 1904, the Secretary of the Interior remanded the Commission's decision in this case and directed that a further hearing be had, and this case was accordingly set for hearing on July 28, 1904, and the applicant and the Cherokee Nation notified thereof. On that

day the applicant failed to make appearance, but the Cherokee Nation appeared by its attorney and introduced additional testimony. When this testimony has been transcribed you will be furnished with a copy. You are requested to advise the Commission at your earliest convenience whether the applicant desires to offer any further testimony in support of her application.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-381.

Muskogee, Indian Territory, August 10, 1904.

William F. Rasmus,

Attorney for Rachel Rucker,

Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application of Rachel Rucker for the enrollment of herself and children as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of June 3, 1904, remanding the Commission's decision of July 10, 1903, rejecting said application.

In accordance with instructions contained in departmental letter the principal applicant has this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Tuesday, September 20, 1904, and introduce the testimony of such witnesses as she may be able to procure tending to show whether or not the pages of either of her parents are on the 1880 roll, testimony as to the identity and citizenship of the fathers of her children, Luther and John Martin, and further testimony as to her right to enrollment as a Cherokee freedman by intermarriage.

Respectfully,

Register.

Commissioner in Charge.

Cherokee Freedmen

D-381.

Muskogee, Indian Territory, August 10, 1904.

Rachel Rucker,

Walnut, Indian Territory.

Dear Madam:

In the matter of your application for the enrollment of yourself and children as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of June 3, 1904, remanding the Commission's decision of July 10, 1903, rejecting your said application.

In accordance with instructions contained in departmental letter you are hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Tuesday, September 20, 1904, and introduce the testimony of such witnesses as you may be able to procure tending to show whether or not the names of either of your parents are upon the 1880 roll; further testimony as to the identity and citizenship of the fathers of your children, Luther and John Martin, and also further testimony as to your right to enrollment as a Cherokee freedman by intermarriage.

Respectfully,

Register.

Commissioner in Charge.

COPY.

Cherokee Freedman
D-381.

Muskogee, Indian Territory, December 28, 1904.

Blus & Bulger,

Attorneys for Rachel Martin et al.,
Vinita, Indian Territory.

Gentlemen:

There is herewith enclosed a copy of supplemental testimony taken at Muskogee, Indian Territory, on September 20, 1904, in the matter of the application for the enrollment of Rachel Martin et al., as Cherokee Freedmen, together with a blank form of receipt which you are requested to sign and return to the Commission.

Respectfully,

Encl. 1-1.

(SIGNED) *Tame Bixby*
Chairman.

COPY.

Cherokee Freedmen
D-381.

Muskogee, Indian Territory, January 12, 1905.

Rachel Ruoker,
Walmart, Indian Territory.

Dear Madam:

In the matter of your application for the enrollment of yourself and your minor children as Cherokee Freedmen, you are advised that before the Commission can render a final decision in this case, it will be necessary that you introduce further testimony showing that John Martin, father of your minor child, Luther Martin, and John Towers, father of your minor child, John Martin, possessed rights to enrollment as Cherokee Freedmen. It is very essential to a disposition of this case that this testimony be introduced.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Wednesday, February 1, 1905, and introduce testimony as above suggested.

Respectfully,

Register.

SIGNED. *Tame Bixby.*
Chairman.

COPY:

Cherokee Freedman
D-321,

Muskogee, Indian Territory, January 12, 1905.

Blue & Bulger,

Attorneys for Rachel Rucker or Martin,
Vinita, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of Rachel Rucker or Martin and her minor children as Cherokee Freedmen, you are advised that before the Commission can render a final decision in this case, it will be necessary that further testimony be introduced showing that John Martin, father of the minor child, Luther Martin, and John Towers, father of the Minor child, John Martin, possessed rights to enrollment as Cherokee Freedmen. It is very essential to a disposition of this case that this testimony be introduced.

The principal applicant has this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Wednesday, February 1, 1905, and introduce testimony as above suggested.

Respectfully,

Register.

(SIGNED) *Tams Bixby*
Chairman.

COPY.

Cherokee Freedmen

D-381.

Muskogee, Indian Territory, February 10, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of supplemental testimony taken at Muskogee, Indian Territory, on February 4, 1905, in the matter of the application for the enrollment of Rachel Martin, et al., as Cherokee freedmen.

Respectfully,

Incl. 8-57.

SIGNED

Tame Bixby.
Chairman.

COPY.

Cherokee Freedmen

D-381.

Muskogee, Indian Territory, February 10, 1905.

Blue & Bulger,

Attorneys for Rachel Martin, et al.,

Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of supplemental testimony taken at Muskogee, Indian Territory, on February 4, 1905, in the matter of the application for the enrollment of Rachel Martin, et al., as Cherokee freedmen, together with a blank form of receipt which you are requested to sign and return to the Commission.

Respectfully,

Incl. S-58.

SIGNED, *Tame Bixby.*
Chairman.

COPY

Cherokee President
D-351.

Muskogee, Indian Territory, June 28, 1905.

The Honorable,

The Secretary of the Interior,

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Rachel Martin, et al., as Cherokee freedmen, including the Commission's decision dated June 28, 1905, rejecting the application for the enrollment of Rachel and Luther Martin, and granting the application for the enrollment of John Martin, as Cherokee freedmen.

On July 10, 1905, the Commission rendered its decision rejecting the application for the enrollment of the applicants herein as Cherokee freedmen, and thereafter, on June 5, 1906, this case was remanded for further hearing and readjudication.

Respectfully,

Incl. 3-40

RECORDED,
James Bixby
Chairman.

Through the

Commissioner of Indian Affairs.

COPY.

Cherokee Freedmen

D-381.

Muskogee, Indian Territory, June 28, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, rejecting the application for the enrollment of Rachel and Luther Martin, and granting the application for the enrollment of John Martin, as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

SIGNED, *Tams Dixby.*
Chairman.

Incl. S-39

COPY.

Cherokee Freedmen

D-381.

Muskogee, Indian Territory, June 28, 1905.

Rachel Martin,

Walnut, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, rejecting the application for the enrollment of yourself and your son, Luther Martin, and granting the application for the enrollment of your son, John Martin, as Cherokee freedmen. There has heretofore been furnished your attorneys, Blue & Bulger, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-37
Register

SIGNED, *Tams Dixie*
Chairman.

COPY.

Cherokee Freedmen

D-381.

Muskogee, Indian Territory, June 28, 1905.

Blue & Bulger,

Attorneys for Rachel Martin, et al.,

Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, rejecting the application for the enrollment of Rachel and Luther Martin, and granting the application for the enrollment of John Martin as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED).

Tame Bibb

Chairman.

Incl. S-38
Register

Cherokee Freed.
D.381.

Muskogee, Indian Territory, November 19, 1906.

Starr & Patten,

Attorneys for Rachel Martin, et al.,

Vinita, Indian Territory.

Gentlemen:

Receipt is acknowledged of your letter of November 12, 1906, enclosing a notice signed by the principal applicant, Rachel Rucker, formerly Rachel Martin, stating that you have been employed to represent applicants in the Cherokee freedmen case of Rachel Martin, et al.

You have been entered as Attorneys of record for these applicants, and will be advised of any further action taken in their case.

The decision of the Commission to the Five Civilized Tribes, granting the application for the enrollment of John Martin, and rejecting the application for the enrollment of Rachel and Luther Martin as Cherokee freedmen, was forwarded to the Secretary of the Interior June 28, 1906, where the same is pending at this time.

Respectfully,

S.W.

Commissioner.

Cherokee Freed-
man-R 878.

Muskogee, Indian Territory, September 11, 1907.

Rachel Rucker, formerly Martin,
Chaffee, Indian Territory.

Dear Madam:

This office is in receipt by reference of the Commissioner of Indian Affairs of your letter dated August 19, 1907 asking to be advised if you are entitled to hold your home until your citizenship is settled.

In reply you are advised the records of this office show that your application for enrollment as a Cherokee freedman was denied by the Secretary of the Interior on November 26, 1906. It does not appear, therefore, that you have any right as a claimant for citizenship in the Cherokee Nation to the possession of land in said Nation.

Respectfully,

Acting Commissioner.

EW

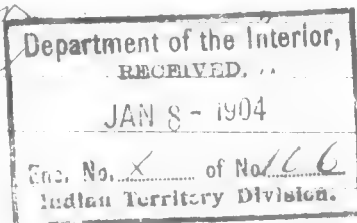
CHEROKEE FREEDMAN.
CHEROKEE CASE

No. *LD 381*

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE
APPLICATION FOR ENROLLMENT
OF

Rachel Martin
Luther
John



He is a citizen of the Cherokee Nation.

Muskogee, I. T., JUL 22 1903 190

Respectfully forwarded to the Secretary of the Interior

per request

Cher. Fr. R 879

Trans. from Cher. Fr. D 383

Cher. Fr. R 879

00463: I 3.

SECRET
 2. DECLASSIFIED

1. The above information was obtained from the files of the
 2. Federal Bureau of Investigation, Department of Justice, and
 3. the files of the Central Intelligence Agency, Department of State.
 4. The information was obtained from the files of the Federal Bureau
 5. of Investigation, Department of Justice, and the files of the
 6. Central Intelligence Agency, Department of State, and is being
 7. furnished to you for your information.

[illegible]

at the following address:

all of these individuals will be made known to them through postal card. The time expiration of the Commission in regard to with special interest and mother as Charles Frederick Lyon's grand-children of or special permit stating if this time; they are not yet said to be living now, there is no definite as to their now; these children have to be from 11 to 18 years; they are now residing with Mrs. Olfert's father, Heinrich, with and 480 K. The children are individuals are received at this time, children admitted to, and who are said to be minors. Mrs. Olfert of the village of, but not upon any other roll. The five of a separate card; the being identified like the children of the village and status enjoyed by a woman; and the fact of his wife at 20 years; the children to

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILE
AUG 27 1901

File with Cherokee Freedman 383, *Nester Foster*

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Joe Lynch for the enrollment of himself and wife and five children as Cherokee Freedmen, being sworn and examined by Commissioner Brackinridge, he testified as follows:

- Q Give me your name? A Joe Lynch.
Q How old are you? A I guess about 60 years old.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Belknap.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A Yes sir, wife.
Q Any children? A Yes sir.
Q How many? A I have got the names and ages. (Produces paper)
Q You have six children under 21 years of age have you? A Yes sir.
Q The oldest one of these six is Viney? A Yes sir.
Q Are any of this six that we are talking about married? A No sir.
Q How long have you lived in the Cherokee Nation? A All my life, bred and born here.
Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
Q Give me the name of your father? A I don't know him, I never did see him.
Q Give me the name of your mother? A I don't know her, but she was named Viney; but she is dead.
Q Been dead many years? A Yes sir.
Q To whom did you belong before the war? A Joe Lynch.
Q He was a Cherokee citizen? A Yes sir.
Q You were his slave at the beginning of the war? A Yes sir.
Q Give me the name of your wife? A Sophia.
Q How old is your wife? A I guess she is about 40 years old.
Q When were you and she married? A I couldn't say when we did marry, hardly.
Q Well, ~~many~~ long time ago? A Yes sir.
Q Before any of these children were born? A Yes sir.
Q She must be more than 45? A She must be more than that.
Q Is she the mother of your oldest child? A Yes, sir.
Q That child is 32? A She must be older than that then I guess.
Q Maybe about 50 isn't she? A Yes.
Q You know the name of her father? A No sir.
Q Did you know the name of her mother? A Yes sir.
Q What is it? A Her mother was named Chaney Ross, she is dead.
Q Has she been dead very many years? A Yes sir.
Q More than 20 years? A She died time the war was going on, I think.
Q To whom did your wife belong? A Belonged to Susan Ross.
Q She was a Cherokee citizen? A Yes, sir.
Q And your wife was a slave in the Cherokee Nation when the war started? A Yes sir.
Q Now these six children for whom you apply, the oldest one is named Viney? A Yes sir.
Q That child is 19 years old, isn't she? A Yes sir.
Q Then Eliza is that the next one? A Yes sir.
Q She is 13 years old, isn't she? A Yes sir.
Q Cynthia Jane, that's the next one isn't it? A Yes sir.
Q She is 12 years old? A Yes sir.
Q Then comes Randolph, is that it? A Yes sir.
Q Randolph is 15, is that right? A Yes sir.
Q Then comes Ruth? A Yes sir.
Q She is 13 isn't she? A Yes sir.
Q Then comes Jackson, he is 11 isn't he? A Yes sir.

Q And that's your last one? A Yes sir.
 Q Are these children all living now? A Yes sir.
 Q Are you on the 1880 roll? A No sir.
 Q None of your family on the roll of 1880? A No sir.
 1880 authenticated roll of citizens of the Cherokee Nation
 examined and applicants not found;
 1890 census roll of citizens of the Cherokee Nation
 examined and applicants not found.
 Q None of your family are on the 1880 roll? A No sir.
 Q Did you draw Strip money for you and family at the big
 payment? A No sir, I drew at the last payment.
 Q Then none of you are on the Karna-Clifton roll? A No sir.
 Karna-Clifton pay-roll of citizens of the Cherokee Nation
 examined and applicants not found.
 Wallace roll of citizens of the Cherokee Nation examined
 and applicants identified as follows:
 page 123 #2584 Joseph Lynch, Delaware District;
 page 123 #2585 Sophia Lynch, Delaware Dist;
 page 123 #2593 Vina Lynch, Delaware Dist.

Com'r to roll clerk: Vina is the last one you have got there?
 A Yes sir.

Q Why are you not on the roll of 1880? A Well sir, I couldn't
 tell you how come I wasn't on.
 Q Neither you or your wife, did you apply to have yourself put
 on that roll? A Yes sir.
 Q And they wouldn't put you on, either one of you? A No sir.
 Q Did they tell you why? A No sir.
 Q Well then none of you are on the roll of 1880? A No sir, I
 guess not.
 Q Do you know the reason of that? A No sir.
 Q Why did they refuse to put you on the Karna-Clifton roll, all of
 you? A I couldn't tell you that, only when I asked them they said
 it was just through an oversight.
 Q Where did you go during the war? A I went to Kansas.
 Q Did your wife go with you? A No sir.
 Q Did she ever go to Kansas with you? A Yes sir, she went after I
 did I think, or a little before; she was a little bit of a girl.
 Q I just want to know whether she went to Kansas with you?
 A No sir.
 Q Where did you marry her? A In Kansas.
 Q You have got a child named Hester? A Yes sir.
 Q Where was that child born? A They were all born and raised here.
 Q I asked you about Hester, was Hester born in the Cherokee Nation?
 A Hester wasn't, Hester was my baby.
 Q Well, where was Hester born? A I believe she was --
 Q Born in Kansas? A Yes sir.
 Q Hester is 32 years old now? Is she? A I guess so, I don't know
 the age myself.
 Q That is the age you have got on this memorandum? A Yes, I got
 a fellow to put the age down: just had to make a guess at it.
 Q Where was Nancy born? A Down here in the Cherokee Nation. Out
 here on the Delaware, right where I am living at.
 Q All these other children where were they born? A All of them
 was born right there.
 Q In the Cherokee Nation? A Yes, sir.
 Q Your wife didn't go to Kansas when you went there? A No sir.
 Q You were married to her when you went to Kansas? A No sir.
 Q When did he go to Kansas, when did you see her up there?
 A I saw her there along in '33.
 Q Where did you see her? A I saw her there about Allen County,
 up there.

Q How long did you know her before you and she got married?
 A I guess I must have known her about 6 or 7 years I expect.
 Q Did you know her before she went to Kansas? A I knowed her
 before, they lived right down here where --
 Q I am asking you if you knew her? A Yes, I know her; she was
 just a little bit of a girl then.
 Q You knew her before she went to Kansas? A Yes sir.
 Q How long had she been in Kansas before you married her, how long
 was it after she got there before you married her? A I guess she
 had been there, I expect about four years.
 Q She had been there about four years and then you and she married
 there? A Yes sir.
 Q How old was your child, Hester, when you and your wife came back
 to the Cherokee Nation? A Oh she was just a young thing, just a
 little bit of a baby.
 Q Only a few months old? A Yes sir.
 Q How long after you married your wife before Hester was born?
 A It wasn't long.
 Q More than a year? A No sir, I guess it must have been about
 nine months before she was born I guess.
 Q So you and your wife came back to the Cherokee Nation then about
 a year after you were married? A Yes sir.
 Q Because Hester was born and was a baby some months old? A Yes
 sir.

It now being the noon hour the Commission adjourns until
 1 o'clock pm.

M. D. Green, being first duly sworn, states that as stenographer
 to the Commission to the Five Civilized Tribes he correctly recorded
 the testimony and proceedings in this case and that the foregoing is a
 true and complete transcript of his stenographic notes thereof.

Signed, M. D. Gr. Jr.,

Subscribed and sworn to before me this May 22, 1901.

Signed, C. R. Breckinridge,
 Commissioner.

It now being the hour of one o'clock P.M. May 21st 1901, and
 the Commission having been called to order, the application for the
 enrollment of Joe Lynch et al. is continued as follows:

W. W. Hastings for the Cherokee Nation.
 A. S. McRea, attorney for the applicants.
 C. R. Breckinridge, Commissioner presiding.
 Chas. von Weise, Stenographer.

JOE LYNCH, the applicant herein, re-called and examined as
 follows by Commissioner C. R. Breckinridge:

Q I understand that you desire to make a correction in your testi-
 mony given in this morning? A Yes sir.
 Q Then you testified that your child Hester was born in Kansas?
 A Yes, sir, I made a mistake there.
 Q You testified, as I recollect it, that the child Hester was born
 in Kansas and was a few months old when you came from Kansas after
 the war and came into the Cherokee Nation? A Yes sir, but she was
 born in the Cherokee Nation, all of them was born here, I just made
 a mistake this morning.
 Q Did you bring your wife back from Kansas? A Yes sir.
 Q When you first came back from Kansas, did you bring your wife
 with you? A Yes sir.
 Q Do you mean to say that you don't remember if she brought a suck-
 ling babe with her? A Well when I first come I first come by myself

horseback and didn't bring her with me.

By Gen'l Breckinridge: I want to warn you that you have made some very positive statements in regard to your coming here after the war and that when you testified this morning you said that you were positive that when you first came back to the Cherokee Nation from Kansas after the war that you brought your wife with you and that she had a baby in her arms at the time that was born in Kansas just a few months before you started, and now you come and desire to change all that and I simply desire to warn you that you are under oath and that you are to consider well what you intend to swear to for if you do not swear the truth you are liable to get yourself into trouble, very serious trouble in fact.

Q You say now that when you came here the first time from Kansas directly after the war, that you came by yourself on horseback and that your wife was not with you then? A No sir she was not.

Q And you also desire to correct your statement of this morning wherein you stated that when you and your wife came down here from Kansas, she had a baby in her arms? A No sir she did not, I made a mistake in that, the baby was born since then, she was born in the Cherokee Nation.

Q You say now you first came by yourself? A Yes sir on horseback to look out a location.

Q When did you come here by yourself, and where did you come to?

A On Grand river pretty close to where I am living now, and located me a place.

Q When was that? A November of '66.

Q Did you come down there then to prepare a place for yourself and family? A Yes sir, for me and my wife.

Q What work did you do there that time? A Located me a claim and laid the foundation for me a house.

Q What else did you do? A Never did nothing else then.

Q How long did you stay there before you went back to Kansas?

A Not very long.

Q Did you stay there until Spring? A No sir, maybe a week or two.

Q And then what did you do? A Then I got back and gets my woman and comes down and builds my house.

Q What time was it you say you first come there? A It was in November.

Q How did you bring your wife when you come with her? A In a wagon.

Q Just you and your wife? A Yes sir.

Q Nobody else? A No sir.

Q Did you go right back to Kansas and get your wife and bring her right straight back here? A Yes sir.

Q Your daughter Vina is married is she? A Yes sir.

Q So you made a mistake there also when you said this morning that the children you applied for were all under age and living with you at this time? A Yes sir I made a mistake there, Vina is married, she has not been married very long and I had forgotten that she was.

By Gen'l Breckinridge: So the application for her will not be continued, as she will have to apply for herself or be applied for by her husband.

By A. S. Melea, attorney for the applicant:

Q Mr. Lynch, you say that you were born in the Cherokee Nation?

A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where to? A Kansas.

Q When did you return to the Cherokee Nation? A In '66 in November.

Q Where did you first come to the Cherokee Nation when you returned the first time from Kansas? A I located right where I am living now, on the river in Delaware district in the Territory.

Q In the Cherokee Nation? A Yes sir.

Q Who were your owners before the war? A Joe Lynch.

Q You say that you laid the foundation of your house preparatory to

the moving of your family, your wife, from Kansas, when you came here that first time by yourself on horse-back and then went back and got your family? A Yes sir went back for my woman.

Q How long had it been before you returned to the Cherokee Nation after you got back to Kansas that time? A I cant tell just exactly - I dont know just how long - it has been so long that I had almost forgot just the exact time.

Q Was it in December of the same year or in the January of the next year, in 1867 - was in in December of '66 or in January of '67, in other words, how long did you stay in Kansas before you came back to the Cherokee Nation after you had been here and located your claim and laid the foundation of your house preparatory to moving your family here, and then went back up there? A I dont think I was in there more than two months before I returned here with my wife.

Q Have you lived in the Cherokee Nation continuously ever since that time that you came back here with your wife? A Yes sir.

Q Did you and your wife belong to the same owners before the war?

A No sir, my wife belonged to Susan Ross.

Q Were you and she married before the war? A No sir.

Q When were you and she married? A After the war.

Q After the war closed? A Yes sir after the war closed.

Q Is your name on any of the authenticated rolls of the Cherokee Nation? A No, sir, not been able to find it on that, but it is on the Wallace roll.

Q Can you tell why it is not on the roll of 1880? A No sir I dont know.

Q Did you make application for enrollment then? A Yes sir I applied as a Cherokee Freedman when the census takers come round to the houses then.

Q Did you get on the roll then? A I cant tell if they put me on then or not, if they did they scratched me off again.

Q Was you rejected that you know of? A No sir.

Q You say you have lived continuously in the Cherokee Nation ever since November of December of 1866 up until now? A Yes sir I has lived here ever since then till now.

By W. W. Hastings, Cherokee Representative:

Q You were in here before dinner were you not? A Yes sir.

Q And you testified then that you brought your family with you when you came back from Kansas - your wife and one child? A No sir I did not bring any child, I made a mistake then; I dont know what I did say then.

Q You have found out since going to dinner and talking with your lawyer, that the age of your oldest child would not be enough to have her born here, in other words, that she could not be the age you give in for her, and be a month or two old at the time you say you come back from Kansas - in '66? A No sir I havnt talked it none, I just made a mistake in giving in the ages, I remembers now that that child was not borned then, she was borned after we got here.

Q Wasn't that oldest child born in Kansas before you come back to the Cherokee Nation? A No sir, it wasn't.

Q You testified that it was didn't you before the Kerne-Clifton Commission some five years ago? A No sir not of it being born in Kansas.

Q Didn't you swear then that you brought that child back with you when you and your wife come to the Cherokee Nation from Kansas right after the war? A No sir I dont know what I testified there.

Q Didn't you testify before the Kerne-Clifton Commission that you had this one child when you left Kansas after the war to come to the Cherokee Nation and that you brought it with you? A No sir I never told them fellers that.

Q You never swore that? A No sir.

Q Where did you live before the war? A Well sir, I lived in

Saline district with Lon Lynch's father.

Q You have seen Lon Lynch a great while, the one that lives on Grand river, haven't you? A Yes, sir, that is my young brother.

Q He was living there when you came back wasn't he? A No sir, I was in prison.

Q Didn't he live in Flint? A I don't know where he lived then.

Q Was he living in Saline? A I was not in Saline.

Q Didn't you come back to the old Joe Lynch place? A No sir, I come back and located on this side of the river from the old place.

Q Didn't you swear before the Kansas-Clinton Commission that you come back to the old Lynch place? A No sir I never.

Q You deny going back to the old place then? A I told you that I never went there.

Q Who were your neighbors there? A Daniel Henderson.

Q Who else? A Davis.

Q What Davis? A I don't know nothing but Davis, he was a full blood Indian.

Q Where did George Clark live? A Well George Clark lived away up there on Grand river.

Q How far from you? A Well I don't know exactly, I can't tell how many miles it was.

Q He wasn't your near neighbor then? A No sir.

Q Didn't you testify before that he was? A No sir.

Q Do you know Watt West? A Yes sir.

Q How far did he live from you then? A I never seed him then.

Q How long after that before you saw him? A I don't know exactly.

Q How far does he live from you now? A 15 or 16 miles as near as I can tell.

Q Where did you make your first crop after you got back from Kansas?

A The first crop I made was on a little bit of land I had rented from a full blood Indian.

Q What was his name? A Joe Dirtwater.

Q Was that in Saline or Delaware? A That was in Saline.

Q How far from where you now live? A 4 or 5 miles, I don't know exactly.

Q Do you live in Delaware district now? A Yes sir.

Q How long did you stay in Saline, before you moved to Delaware district? A I never lived there at all, I just rented a piece of ground there and went over on horse back and worked it.

Q So you have lived practically on the same place that you now live ever since your return from Kansas? A Yes sir.

ALLEN LYNCH, called and sworn by Commissioner Breckinridge, testified as a witness on the part of the applicant:

Examined by Commissioner Breckinridge:

Q What is your name? A Allen Lynch.

Q How old are you? A 61 about.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A Might say all my life.

Q Do you know the applicant there, Joe Lynch? A Yes sir.

Q How long have you known him? A We were born and raised on the same place.

Q You have known him practically all your life then? A Yes sir.

Q Did you know him during the war? A Yes sir.

Q Where did you see him during the war? A We were soldiers together and were both in the same regiment.

Q When were you discharged after the war? A In '65.

Q Where were you discharged? A At Leavenworth.

Q When did you see him after that? A He came to Neosho Falls together in '65 and I left him there in that winter, reckon about Christmas and came back here to the Nation.

Q Are Neosho Falls in Missouri? A No sir in Kansas.

Q Where did you locate here in the Nation on coming from Neosho Falls? A On the east side of Grand river.

Q How long did you stay at that place? A Until some time in March.

Q Of what year? A '66.

Q On the east side of Grand river? A Yes sir.

Q Then where did you go? A Moved right down here to the mouth of this creek here.

Q Cabin creek? A No sir, where Bull creek runs into Cabin.

Q How long did you stay there? A Raised a crop there, a crop of corn, and staid there until June or July.

Q You sir you staid on the east side of Grand river until March of 1866? A That was when I first moved over here.

Q You spoke of going first, when you got back, to a place on the east side of Grand river, when did you get there? A The first day of February '66.

Q How long did you stay there? A 7 or 8 days.

Q And then you come over here to Bull Creek, is that right? A Yes sir.

Q How long did you stay at this place at the mouth of the Creek?

A We staid there until along in June or July.

Q Of what year? A '66.

Q Then what did you do? A We moved down to what was called the old Ark Simmons place.

Q Where is that? A About a mile from the old Lewis Hall place.

Q How long did you stay there? A We staid there until some time maybe in October, can't tell exactly.

Q Was it of the same year? A Yes sir.

Q Then where did you go? A Went to the Six Mile Bottom on McGarris's place.

Q How long did you stay there? A ~~XXXXXXXXXXXXXXXXXXXX~~ I don't know exactly - George Clark bought the place and we moved off.

Q Was that the same year? A Yes sir.

Q Where did you go to then after you left the place George Clark bought? A Went to the Dr. Thompson place.

Q Still in '66? A Yes sir.

Q How long did you stay there? A Until some time along in '67, cant tell exactly.

Q Was it in the summer or fall? A I left there in the summer of '67.

Q You say that you left Joe Lynch up on Neosho Falls? A Yes sir.

Q When did you see him again after leaving him up there? A I saw him while I was living on this Six Mile Bottom, he came down there to see his brother in law Simon, and to locate him a place.

Q Six Mile Bottom of what creek or river? A Grand river.

Q On which side of the river? A The west side.

Q Did he pick himself out a place there? A Yes sir.

Q Is that the place he is living on now? A Yes sir.

By A. S. McRea:

Q Do you know Mr. Lynch, when Joe Lynch came to this place that you speak of to seek him out a location, do you know when it was?

A It was in the fall of '66.

Q Well you have known him to have lived in the Cherokee Nation continuously ever since he first moved to that place have you not?

A He has never moved off of it since he came there.

By V. V. Hastings:

Q When did he move here with his family? A He got here with his family in '67.

Q Was it in the fall? A In the spring or summer.
Q How long did he stay when he first came? A Week or ten days.
Q Then did he go back? A Yes sir.
Q He had no means then did he -- nobody that day at that time did they? A No sir, not much.
Q Was he a horse-back or foot the first time you saw him? A He was horse back when he came there to look up a claim.
Q How many children did he have when he came in the following spring or summer with his family? A I can't remember just exactly, must have had three, four, five or six, I don't know just how many.
Q Did they come in wagons that time? A Yes sir.
Q When he did come back with his family, where did he move to?
A Right on the place where he lives now.
Q He never went back to the Joe Lynch place? A No sir, right where he lives now.
Q Is that in Delaware district? A Yes sir, right close to Ouse's.
Q How far is that from the old Joe Lynch place where he used to live before the war? A 4 or 5 miles.
Q In the same neighborhood though? A Yes sir.
By A. S. McKee:
Q Are you acquainted with the children of Joe Lynch? A Well, yes sir, I can't give the names of them all, I can't count them all, he can't ever count them; I know them but I don't know their ages and can't give all their names. He can't even do that himself.
Q Have you any knowledge of your own how old the oldest one of his children is? A No sir, I can't tell.
Q Are you acquainted with the oldest one? A I know them all but I can't tell nothing about their ages, I live there in two miles of them but I can't tell nothing about their ages.
Q Were they all born here in the Territory? A I think he brought two of them with him from Kansas when he came here first.
Q When he moved here with his family you mean? A Yes sir.
Q Were the others all born here? A I think they was.
Q You don't know which ones were born in Kansas? A No sir, I think though that Hester -- a girl -- and the other one -- I don't know -- I don't know of any others was born there or not. The others though was all born right there where he lives. I don't know how many he brought with him from Kansas.
Q Is the one that you referred to by name the oldest one? A Yes, sir, that I know of.
Q You don't know of they have any older ones or not? A No sir I don't know.
By the Commission:
Q This place that you say that you saw Joe Lynch the first time when he came here to locate him a place, when he came here first on horse-back, was that in what you call Six Mile bottom? A No sir, it was on the prairie, right on top of the prairie.
Q You were living then yourself on the Six Mile bottom? A Yes sir I was about four miles below there.
Q And when you next saw him it was in the following summer? A Yes sir.
Q When he was moving his family? A Yes sir.
Q Did he move them all to this place near Six Mile bottom? A Yes sir.
Q How far from where you lived was this place? A Must have been 4 or 5 miles or maybe six miles.
Q Were you at his place when he got there? A No sir, he was there when I saw him, he was right there.
Q How long had he been there when you first saw him and his family?
A I can't tell you that.
Q But that is the first time you saw him after you saw him on horse back by himself the year before? A Yes sir.
Q You don't know if he had just come or not? A No sir I never asked him.
Q Do you remember when he married in Kansas, or were you present

at the time? A No, sir I wasn't there. He married in '65 or '66, because we both belonged to the same regiment and were mustered out together and I left him there and during the time I left him there he married.

ANDERSON LYNCH, called and sworn by Commissioner J. R. Brock-
inridge, as a witness, testified as follows on the part of the ap-
plicant: (Examined by Sam'l Brockinridge)

Q What is your name? A Anderson Lynch.

Q How old are you? A I am about 34.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A I was born and raised here.

By A. S. McRea.

Q Are you acquainted with the applicant, Joe Lynch? A Yes sir.

Q How long have you known him? A All my life.

Q Did you see him here in '66? A Yes sir.

Q What time of the year was it that you saw him? A It was in the fall of '66.

Q Where was it that you saw him? A It was right there on the river, he was making a claim where he is now living.

Q Did you know him before the war? A Yes sir.

Q Who did he belong to? A To Joe Lynch, the same man I did.

Q Are you acquainted with his wife? A Yes sir, a little. I have seen her in Kansas.

Q When did you see her in Kansas? A In '65, when I first got ac-
quainted with her.

Q Were they married then? A Yes sir.

Q Do you know when Joe Lynch went back to Kansas for his family after he had first been here to locate him a claim? A Yes sir it was in the winter, and I think that he went up here to George Mission and had to stay a while and never got back here until in the winter of '67.

Q And did he then bring his family and locate where he is living now? A Yes sir.

Q Did they have any children born in Kansas? A They had one that I remember of, a girl.

Q What is its name? A Hester.

Q Was she born in Kansas? A Yes sir, I knew she was.

Q How old was she when she came here from Kansas? A I don't know exactly.

Q Of your own knowledge, has Joe Lynch lived in the Cherokee Nation continuously ever since he came here in '66? A Yes sir.

By W. W. Hastings:

Q Have you ever been tried for anything? A Oh yes I has been tried.

Q What for? A I has been tried for murder.

Q What was done with you? A I was acquitted.

Q Ever been tried for anything else? A No sir.

Q You knew Joe Lynch before the war did you? A Yes sir, we was raised together.

Q Where did you live at the time that you saw Joe come back here in the fall of '66? A On Lynch's Prairie, and heard of him being over there and came over to see him.

Q Is Lon Lynch your young master? A Yes sir.

Q And you say that Joe brought back his family from Kansas to the Cherokee Nation in the fall or winter of '67? A Yes sir, it was in cold weather.

Q He had one child then that you remember? A Yes sir, he didn't have any children with him the first time he came, he came the first time on horse-back by himself.

Q I mean when he brought his family -- his wife? A Yes sir.

By A. S. McRea:

Q You are a Cherokee citizen are you? A Yes sir.

APPLICANT, re-called and examined by the Commission:

Q How did you get at the ages of these children that you handed in on this slip of paper? A I got a man to put them down.

Q Who told him the ages to put down? A I did, I just had to guess at it; I didn't know their ages exactly and had to guess at it, and he put them down as I said I thought they was.

By W. F. Hastings:

Q Is your wife living? A Yes sir.

Q Where was this list made out? A It was made out over at home.

Q Was your wife present when it was made out? A Yes sir she was.

Q You talked with her about their ages didn't you? A No she can't count none; I talked with the man that put it down; of course she was standing there listening to me.

Q You are sometimes known by a nick-name are you not; as Joe Buzzard or Joe Lynch? A Yes sir.

C. L. LYNCH, called and sworn by Commissioner C. R. Breckinridge, testified as follows on behalf of the Cherokee Nation:

(Examined by Com'r Breckinridge)

Q What is your name? A C. L. Lynch.

Q What is your age? A 30.

Q What is your postoffice? A Stillwell, I. T.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life.

Q Do you know the applicant here, Joe Lynch? A Yes sir.

Q Did he belong to your father before the war? A Yes sir.

Q And at the time of the war? A Yes sir to the war to my father's estate.

Q Do you know what became of this man during the war? A He went to Kansas.

Q Did his wife Sophia belong to your father? A No sir, I am not acquainted with his family.

Q Do you know when this man came back to the Cherokee Nation after the war? A Not exactly.

Q What do you know of his coming back? A Well I came back myself in the winter of '66 and '67, in January or February.

Q And when did you first see this man after the war? A The first time that I saw him since the war was to-day a week ago.

Q Just a week ago? A I never saw him from then until last Tuesday a week ago.

Q Do you know where he lives near Six Mile Bottom? A Yes sir I have been to his house three or four years back, but he was not at home, I have not seen him since '68 until last week.

Q Then you have no knowledge of your own as to when he came back from Kansas to the Cherokee Nation? A No sir, I came back myself in '67 and stopped in Flint district and was going backwards and forwards from Flint to my old place in that year of '67, and I found some of the negroes there, but Joe Lynch had not come in yet in '67.

Q Did you pass by where he is living now in your wanderings back and forth? A No sir he was not here then.

Q I mean did you pass by that locality where he now lives? A Yes sir I was well acquainted with the country round there.

Q Was you by there in your rounds in 1867? A Yes sir I was all around there and there was no house there then.

Q In 1867 did you go by the exact spot where this man now lives? A I don't know that I did go by the exact spot, but I was round through the country there, backwards and forward.

Q What time in 1867 were you there? A I got back in February of '67.

Q Was you right there where this man now lives in February of '67?

A I don't know that I was right where he lives.

Q What time in '67 were you in that neighborhood? A I went around through there frequently.

Q Were you there in the fall or summer of '67? A I was right across

the river then, from the place where this man says he lives.

Q Did you go through that neighborhood in the summer or fall of '67? A I don't remember if I did go through the exact place that this man lives at but I was on the other side of the river, just opposite two or three miles from there.

By W. V. Hastings:

Q You passed by his place about three years ago you say? A Yes sir about 2 or 4 years ago, I went to his house but I did not see him as he was not at home.

Q About how far is that place from your old place? A Well I guess it is about 2 or 4 miles.

Q On which side of the river was your old place? A On the south side.

Q Of Grand river? A Yes sir.

Q When did your father die? A In 1861.

Q About the time the war came up? A Yes sir.

Q Did your father leave any property in that neighborhood in the way of farms and improvements? A Yes sir, left all his property there.

Q What were you doing up there in '67 after you returned to the Cherokee Nation? A I came back and found our old place sold under the confiscation act and another man living on it, and I was up around there to look after it and the property my father had left.

Q How much of your time did you spend in that neighborhood in '67?

A Well I lived some of the time in Coowescoowee district on Grand river, I had some folks living there, and then I lived in Flint off and on during '67.

Q You say you never saw this man Joe Lynch in that neighborhood any time during that year? A No sir.

By the Commission:

Q How far is Joe Lynch's home from your father's old home? A 5 or 6 miles.

Q Have you lived at your father's old home ever since the war?

A No sir.

By A. S. McRea:

Q When you came back for your interests in '67, you were only looking after your own interests and nothing else were you not? A Yes sir I was just looking after my property there.

Q You don't know whether or not Joe Lynch was at the place that he states he was or not at that time? A He was not there.

Q You are positive that he was not there? A Yes sir.

Q I understood you to say that you never went to the exact spot where he now lives until about three years ago? A There was no place there at all at that time.

Q That was a very isolated country up around there then was it not?

A Yes sir it was not settled up much then, not as many there as there are now by any means.

Q It is possible that he could have been around there when you first came there and you not have seen him, is it not? A Oh yes it is possible.

Q Then he might have been there and you not have run across him?

A He might.

By the Commission:

Q Did you see any of the rest of your father's slaves around there at that time? A Yes sir.

Q Did you visit them? A Yes sir, I saw them all that was there, at the old place.

Q Did you make any inquiry as to where the rest of them were?

A I inquired for Joe and the balance of them.

Q Did you dispose of that property that year or the next? A No sir I was the only one here at the time.

Q When did you get rid of it? A I cannot say positively, my brother and Col. Bell were administrators and they sold it when they got back.

1925.
JAMES L. THOMPSON, called and sworn by Commissioner G. R. Brookbridge, testified as follows on the part of the Cherokee Nation.

(Examined by Commissioner Brookbridge)

Q What is your name? A Joseph L. Thompson.
Q How old are you? A 62.
Q What is your postoffice? A Vinita.
Q How long have you lived in the Cherokee Nation? A All my life, about one year.

By W. H. Hastings:

Q When did you come back to the Cherokee Nation after the war?
A I came back to Cabin Creek in January, 1866.
Q Do you know the applicant, Joe Lynch? A Yes sir.
Q Do you know where he lives now? A Yes sir.
Q How far did you live from him then? A When I first settled there it was a mile and a half and now it is two miles.
Q Was he living there when you came back to the Cherokee Nation?
A No sir.

Q When did you say you returned? A January '66.
Q Was he not living there at that time? A No sir.
Q Did he move there since then? A Yes sir.
Q You were living then about a mile and a half from where he lives now?
A Yes sir on what was then known as the Shabens place.

By A. S. McKee:

Q How long have you known Joe Lynch? A I have known him nearly all my life, he belonged to my whole.
Q Do you know where he went to during the war? A No sir, he came from Kansas after the war, but I don't know where he was all during the war, Kansas though I suppose.
Q Did he leave here during the war? A Yes sir.
Q When did he leave? A I don't know.
Q When did he return to the Cherokee Nation after the war? A To the best of my knowledge he returned in '68.
Q Where was the first place that you saw him in '68? A Where he now lives.

Q How long had he been there when you first saw him? A Only a few days.

Q Has he been living there continuously since '68? A Yes sir, I have been living there myself ever since and I have never known of him moving away.

Q Can you state positively of your own knowledge whether or not he was here in the Cherokee Nation before '68? A He was not living where he now does before that.

Q Now do you know that he was not living where he is now before that time? A Well, I was over the prairie frequently and did not see him until about that time.

Q What kind of a country was it around there? A How do you mean?
Q Was it isolated and grown up with brush and timber or were there lots of settlements around there? A Well there were only a few people living around in that part of the country then.

Q Was it woods? A No sir he lived out on the edge of the prairie like

Q How far did you say you were living from where he does at the time you first saw him? A About a mile and a half.

Q Then you say you moved to another place? A Yes sir it was about two miles from his place.

Q Do you still live there at that place? A Yes sir.

Q Does he still live at the same place that you first saw him at?
A Yes sir.

Q How far have you been living at the place you now live?

A About one year, yes it has been longer than that.

WALTER A. WEST, called and sworn by Commissioner G. R. Brookbridge, testified as follows on the part of the Cherokee Nation:
(Examined by Commissioner Brookbridge)

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Q What is your name? A Walter A. West.

Q How old are you? A 60.

Q What is your postoffice? A Spavinaw.

Q How long have you lived in the Cherokee Nation? A All my life.

By W. W. Hastings:

Q Mr. West, where did you live the first few years after the war?

A Over here on the Military Road in Delaware district.

Q Do you know Joe Lynche, the applicant here? A Yes sir.

Q Do you know where he lives? A Yes sir.

Q How far did you live from him at any time? A Well when he first came here after the war he lived two miles from me.

Q When did he settle there? A He came there in the spring of '68 to the best of my recollection.

Q Are you positive that he was not there before the year '68?

A No he was not there.

Q How far did you live from him? A Two miles.

Q How long had you lived there? A I moved there in the latter part of '66; during the first part of '66 I lived in close to Meaghe and then I lived near Fort Scott Kansas and then I came down here and made a place and lived on it until in '68 and sold it to Nip and then moved to where I am now living.

Q Then in '67 and '68 you were living near the old Military road and near where this man lives? A Yes sir up to November '68.

Q Where did this man first come to after the war, to the place where he now lives? A I saw him on the old military road and he said that he had come from Kansas, and he settled near there and made a place; I could see it from my house, it was just in sight. It was close to what is now Nips place.

Q And you say that was in the spring of '68? A Yes sir that was in the spring of '68.

Q How long was it from the time you saw him on the old military road until he settled on this place? A That same spring that I saw him on the military road coming from Kansas.

By A. S. McRea:

Q Mr. West, how long have you known Joe Lynch? A I knew him before the war when he was a little boy called Buzzard.

Q Where did he go to during the war? A I dont know.

Q Did he leave the Nation during the war? A I dont know except that he told me that he went to Kansas.

Q When did he leave the Cherokee Nation to go to Kansas if you know? A I dont know.

Q When did he return? A In '68.

Q How do you know that he returned in '68? A He came by my place and said he had come from Kansas.

Q How was he traveling? A In wagons of course, there was no railroad through here then.

Q Who was with him when you first saw him? A He was supposed to have his family with him.

Q What family? A Wife and child is all that I saw.

Q Where did he go to then? A Cross the river where he said he was going over among his acquaintances and relations and then he come back on this said and made him a place.

Q When did he locate his present place, where he now lives? A In the same year, '68.

Q Cant you possibly be mistaken? A I can possibly be mistaken, but that is my judgment.

Q How long have you lived in the neighborhood where you are now living? A Ever since November 1868.

Q Do you know anything about the character and nature of that country before '68? A Yes sir.

Q What was the condition of it, open land or wood? Was it well settled up with settlements? A It was not as thickly settled as it is now; there was some thick woods down in the bottom

Q Was it a wild sort of country? A Well I guess you might call it sort of wild, there was lots of game in around there.

Q Are you positive that he was not located in around there before '69? A I did not see him until that time in '68.

Q Is it not possible that you might not have seen him around there and him yet be living there? A Well I don't hardly think it is for I was around through there pretty much hunting deer and would have run across him.

Q Is it possible that if Joe Lynch had been a deer that you would not have seen him there at that time on account of the isolated sort of country it was? A No sir not if I had had a Winchester with me it is not likely that he could have got away for I was pretty good at killing deer then days.

Q Is it not possible that he could have come back to the Cherokee Nation from Kansas before '68 and you not have seen him? A Yes it is, but the first time that I saw him was there on the old Military road coming by my place from Kansas, as he said, and that was in the spring of '69. He could not have come by there and settled where he now lives without my having seen him.

Q You don't know of your own knowledge when he did come back to the Nation? A I know that he did not come to where he now lives until in '68.

By the Commission:

Q You are not living in the same neighborhood now that you were when Joe Lynch came back? A No sir, I live six miles from him now and when he come back I lived two miles from him.

Q I understood you to say that when he come back the first time and settled that you were living two miles from where he settled?

A Yes sir.

Q That was within two miles of there he settled then and also where he now lives? A Yes sir.

Q When did you begin living on that place yourself -- the one you were living on when you first saw the applicant here? A In the latter part of '66.

Q And you lived there I believe you stated, until the latter part of '69? A Yes sir until in November '69.

By A. S. McRea:

Q Is it not true that you never came to this particular place where you are living now until in '68? A I went there in November 1869.

Q I was speaking of the place where you lived before coming to the place you now live at? A I went there in '66 and made it my home and raised crops there until I sold it to Nip and moved away in '69.

JOE LYNCH, the applicant, recalled and examined by A. S. McRea:

Q Are you acquainted with Mr. Thompson who has just testified for the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life, ever since I was big enough.

Q Did you see him in '68 when you came to the Territory where you are now living? A No sir, I came by myself on horseback that time and never seed him.

Q When did you first see these witnesses? A Must have been in '67 that I seed him.

Q Where was it that you saw Mr. Thompson and Mr. West in '67?

A I saw Mr. West across the river.

Q And not at the present place where you are now living? A No sir when I come down there I never seed nobody.

Q When you brought your wife and family in a wagon did you see Mr. West as he swears you did? A No sir I never.

Q Then he did not see your family and you? A No sir.

Q If you had seen him you would have had some recollection of it would you not? A Yes sir.

Q How long has Mr. West lived in the neighborhood where he now lives - did he live two miles from you when you first settled there?

A No sir he never lived there when I came there, he come and got a place close by there and lived there after that.

Q When was that? A In '67, when I was living there.

Q What time of the year, in January or in December or in the summer or when? A Long in March of '67.

Q Did you know Mr. West before the war? A Yes sir.

Q If you had met him in '68 you would have some recollection of it would you not? A Yes sir course I would.

Q Is the statement of Mr. West that he saw you passing his house on the old Military road with your family in a wagon in the spring of '68 true? A No sir that is not true.

By the Cherokee Nation, W. W. Hastings:

Q Mr. West was living within a short distance of you when you located there? A He was on a place there three or so miles from me, he was on the old Military road and I was near Grand river.

By A. S. McKee:

Q When did your permanent residence begin down there? A It commenced long in the winter when I commenced making my field.

Q In the winter of '66? A Yes sir.

By Com'r Breckinridge: The applicant applies for the enrollment of himself, his wife and six children; it is developed in the course of the inquiry that one of the children for whom he applies is married and his application is reduced to five children. It seems that the applicant was a slave in the Cherokee Nation and of a Cherokee citizen prior to, and at the breaking out of the war between the United States and the Confederacy. He appears to have enlisted in the United States army and to have gone to the state of Kansas, from which state he returned after the war. The applicant is not identified on the roll of 1880 or upon that of 1896, or upon the Kerns-Clifton roll, he is identified on the Wallace roll. He married in the state of Kansas, and in his first testimony states that he there lived until after the birth of his first child; that his wife had gone to the State of Kansas from the Cherokee Nation during the war, that she remained there four years prior to their marriage and that they returned to the Cherokee Nation one year after their marriage. The testimony relating to the time when his wife went to the State of Kansas is not present at this moment, it having been taken by another stenographer, but that can be inquired into later. The applicant subsequently denied that any of his children were born in the state of Kansas, but it is averred by other witnesses, including one of his own, that when he returned to the Cherokee Nation he was accompanied by one child, and one of the witnesses affirms that he was accompanied by more than one child. Witnesses who lived in the neighborhood in which the applicant located, according to his own testimony, immediately after his return, and at which spot he has continued to live ever since, affirm that he came there in the year 1868 with his family. The applicant affirms that he came there first on horseback in the fall of '66 and moved his family to this locality prior to the spring of '67. The testimony is very voluminous, but is referred to for fuller information in regard to its character. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card and the final decision of the Commission will be made known to him at his postoffice address. The applicant guesses his age at

-16-

50 years and that of his wife at 50 years! She appears to partake of all the rights and status enjoyed by himself and will now be listed for enrollment as a Cherokee Freedman on a doubtful card; she being identified like the applicant on the Wallace roll, but not upon any other roll. The five children applied for, and who are said to be minors, and ~~whose~~ ~~whom~~ whose applications are received at this time, are respectively Eliza, Cynthia Jane, Randolph, Ruth and Joe K-son; these children range in age from 11 to 18 years, they are all said to be living now, there is no dispute as to their identity or of their being living at this time; they are not identified on any roll, but they will be listed for enrollment with their father and mother as Cherokee Freedmen upon a doubtful card. The final decision of the Commission in regard to all of these applicants will be made known to them through their father at his postoffice address.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the continuation of the above named cause from one o'clock P.M., May 31st, 1901, at Vinita, I.T., and that the above and foregoing is a full true and correct transcript of the stenographic notes therein.

Signed, Chas. von Weise.

Subscribed and sworn to before me this the 28th of May, 1901, at Chelsea, I.T.

Signed, G. R. Beckinridge,
Commissioner.

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Wm. O. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing and that the same is a true and correct copy from the original.

Wm. O. Jones

Sworn to and subscribed before me this the 24th of August, 1901.

G. R. Beckinridge

Commissioner.

1951
The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the land owned by the United States in the State of California.

The land is located in the County of San Diego, and is situated in the Township of San Marcos, Range 14S, and Section 36. The land is situated in the San Marcos River Valley, and is bounded by the San Marcos River to the north and east, and by the San Marcos River and the San Marcos River to the south and west.

The land is situated in the San Marcos River Valley, and is bounded by the San Marcos River to the north and east, and by the San Marcos River and the San Marcos River to the south and west.

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Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 22, 1901.

In the matter of the application of Nester Foster for the enrollment of herself and four children as Cherokee Freedmen; she being sworn and examined by Commissioner T. B. Needles, testified as follows:

A. S. McRae, Attorney for Applicant.

- Q What is your name? A Nester Foster.
Q How old are you? A 32.
Q What is your postoffice address? A Vinita.
Q What district do you live in? A Delaware.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A On the Wallace Roll.
Q That is the only roll you know that your name is on? A Yes sir.
Q Who do you want to enroll besides yourself? A Four children.
Q Give me the names of your children. A James Foster.
Q How old is he? A Seven years old.
Q The next child? A Pearlle Jane.
Q How old is Pearlle Jane? A Three years old.
Q The next one? A Ethel Jane.
Q How old is Ethel Jane? A Two years old.
Q The name of the next child? A Josephine.
Q How old is Josephine? A Five months old.
Q Are you married? A Yes sir.
Q What is your husband's name? A Robert Foster.
Q Is he a citizen? A Yes sir.
Q Has he been enrolled? A He is on the Wallace Roll.
Q He has not been enrolled by the Commission, has he? A Not yet.
Q Is he here? A Yes sir.
Q You don't apply for him? A No sir, he can apply for himself.
Q What is your father's name? A Joe Lynch.
Q He living? A Yes sir.
Q What is your mother's name? A Sophia Lynch.
Q Is she living? A Yes sir.
Q Were you ever married before you married Robert Foster? A No sir.
Q Was he married before he married you? A Yes sir.
Q These children you apply for are the children of Robert Foster by your marriage? A Yes sir.
Q Are they all alive at this time? A Yes sir.
Q All living with you? A Yes sir.
Q Why is not your name on the roll of 1880, do you know? A I don't know.
Q Where were you born? A In the Cherokee Nation.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q All your life? A Yes sir, all my life.
Q Did you draw what is known as the Cherokee strip money on the Kerns Clifton Roll? A No sir, I didn't receive that.
Q You didn't draw for any of these children? A No sir.

The 1880 authenticated roll, the 1896 census roll, and the Kerns Clifton Roll examined for the names of the applicants and their names are not found thereon.

- A. S. McRae, Cherokee Attorney: How old are you? A 32.
Q You say you were born in the Cherokee Nation? A Yes sir.
Commissioner: You have lived with your father and mother, Joseph and Sophie Lynch until you were married? A Yes sir.

The Wallace Roll examined and the name of the applicant is found on page 123, No. 2586, Nester Lynch, Delaware District.

- Q I understand you to say that you never lived outside of the Cherokee Nation? A No sir, always lived here.

Hester Foster applies for the enrollment of herself and four children. Her name cannot be found upon the authenticated roll of 1880, or the census roll of 1890, upon examination of said rolls; but she is duly identified upon the Wallace Roll as Hester Lynch, her maiden name; she averring that she is the child of Joseph and Sophia Lynch. She avers that she is married to one Robert Foster and by said Robert Foster and her four children for whom she now applies. She makes satisfactory proof as to residence, and satisfactory proof as to the births of her children. The names of her father and mother, Joseph Lynch and Sophia Lynch are not found upon the authenticated roll of 1880, but they have applied to be enrolled as Cherokee Freedmen, and have been listed for enrollment upon S Card No. 576. The testimony taken in the case of the application of her father, Joseph Lynch, is referred to and said testimony will be made a part of the record in the application of the applicant. A copy of said testimony will be filed with the testimony now being taken. Consequently, Hester Foster and her four children as enumerated herein, will be listed for enrollment as Cherokee Freedmen on what is known as a doubtful card for the further consideration of the Commission. She will be notified of the decision of the Commission when arrived at as to her citizenship.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 28th day of May, 1901.

E. D. Rothberg
Maximilian
Commissioner.

the last count he had 22 I think what his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Craven, how long have you known Joe Lynch, all told?

A I can't tell you exactly, all told, but you asked me how long did I know him and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out ever since the close of the war.

Mr. Davenport: Did you have any neighbors up there at Iola, Kansas, do you remember the names of any that know about Joe being there?

A Yes, there is Dr. Charteen, Dan Harvelly, Bill Davis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably here, or their representatives.

A. S. McRea: Now your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedman cases D-383, D-384, D-385, D-386, D-387, D-420, D-480, and D-233.

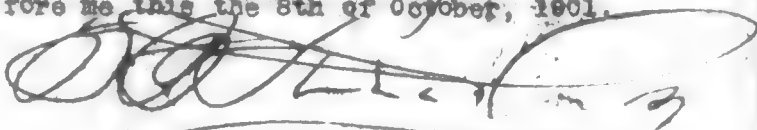
Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedman D-376.

Note: Copy of testimony also should be filed in case of Robert Foster, D-522, and in D-270, as to children of Filey Curls and Nancy Curls.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 8th of October, 1901.



Commissioner.

CORRECTION



The preceding document(s) has been refilmed
to assure legibility and its image appears
immediately hereafter.

DEPARTMENT OF THE
COMMISSION TO THE FIVE
FILE
9 1901

File with Cherokee Freedman, D-525, Hester, Foster.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 1, 1901.

In the matter of the application of Joe Lynch et al. for enrollment as Cherokee Freedmen.

Testimony introduced by Cherokee Nation.

Appearances:

A. S. McRea, attorney for the applicants;
J. S. Davenport, of counsel for Cherokee Nation.

REES CRAVENS, being duly sworn and examined by Commissioner ~~xxxxxx~~ Breckinridge, testified as follows:

Q What is your name? A Rees Cravens.

Q How old are you? A I am about 48.

Q What is your postoffice? A Vinita.

A. S. McRea: In view of the fact that the Cherokee Nation has already offered rebuttal testimony in the Joe Lynch matter, I ask that they state in advance what material fact they wish to bring out, whether it is on new matter or what. I certainly object to any testimony unless it is upon some new matter that they wish to bring out or develop.

Mr. Davenport: We will state, in introducing testimony, unless the record shows that we have closed upon the questions of disproving allegations of the applicant which he has attempted to prove, that is, of the ownership, and his return to the Cherokee Nation within the time provided by the treaty, that we will still introduce testimony. It may be possible the record shows we closed; of course if it does I agree with him, but if it does not show that fact, we are still on our branch of it.

Commissioner: Can the attorney for the applicant cite anything in the record in the nature of an agreement or understanding that the case has been closed.

A. S. McRea: That was my understanding.

Commissioner: Can you cite anything in the record to that effect?

A. S. McRea: Except to this extent: the son, in the person of Mr. Lon Lynch, of the owner of the applicant, testified as to the ownership, and he also gave testimony as to the return, and naturally the presumption would be that the testimony on the part of the Cherokee Nation was closed.

Commissioner: What do you propose to prove by these witnesses?

Mr. Davenport: That he did not qualify within the time provided by the treaty, and that he has not resided here continuously since then.

Commissioner: The Commission is compelled to pursue a very liberal course in regard to these cases, though it is aware of there being in some respects very trying to counsel on both sides, and it is also very trying to the Commission. The law under which the Commission operates seems to require, for a practical discharge of the obligations imposed, rather more latitude than is usually allowed, and the objection of counsel for the applicant is noted in the records. At the same time, however, in this case the testimony will be taken into consideration, in connection with the objection, by the full Commission. The proceedings and requirements of the Department are very liberal towards applicants; at the same time they regard that the record is in some instances being unreasonably balanced. You can proceed with the witness.

Mr. Davenport: How long have you lived in the Cherokee Nation?

A On I have lived in it off and on ever since the close of the war.

Q Did you ever live in Kansas? A Yes, I lived in Kansas.

Q Live in Iola, Kansas? A Lived in Iola about 12 or 13 years.

Q About what years did you live in Iola? A I lived there in '63 or '64, '68, along in there, different years, I was in and out, that was my home when I was around in there; I lived in different parts of Kansas.

Q Do you know the applicant, Joe Lynch, in this case? A Yes, I have seen him.

Q Do you know where he lives now? A Down here on Grand River not far from Island Ford.

Q Did he ever go by any other name, if you know? A Some calls him Joe Buzzard and some Joe Lynch.

Q When did you first get acquainted with the applicant? A When he lived in Iola, Kansas.

Q When was that? A That was along, oh it must has been 35 years since I first knew him, or close onto that.

Q When was the last time you knew him living in Iola, Kansas?

A I can't tell you the exact time when I did see him because --

Q Where did you first get acquainted with him? A In Iola, Kansas.

Q When was that with reference to the close of the war? A Not long after the close of the war.

Q Did he have a family? A Yes, he had a wife, I don't remember now how many children he had.

Q What was his wife's name? A Some calls her Toos and some calls her Sophia, she answers to either one of them names.

Q Was his family living at Iola when you first got acquainted with him? A Yes, sir.

Q How long did they live there? A Oh, they lived there seven or eight years or more, he used to work for Dan Harvelly cutting wood, and the Davis boys.

Q You got acquainted with him in Iola, then, after just after the war? A Yes.

Q And he lived there to the best of your knowledge about how many years? A He must have been there eight or nine years, somewhere along there, six or seven, I never kept no count of it before he left there.

Q Do you know anything about his children, did he have any? A I have seen his children, but I never took no particular observation of them, I seen them all.

Q Did his family live anywhere close to you? A Right close, his wife used to stay in the house with my wife.

Q Where was he? A He was working, chopping saw-logs and working around down there.

A. S. McKen: What is your occupation? A All round man, no particular work, any line there is a dollar or five cents in, any man got a job of work, don't follow any one certain thing.

Q How long after the war was it that you first became acquainted with the applicant, Joe Lynch? A I don't know the exact time, but I know I met him in town there for a number of years, right around that town, I don't know when he left.

Q You don't know as regards -- you didn't know him in the year 1868? A I wouldn't say for certain, I expect I did but I will not say for certain.

Q Do you know anything about his ownership? A No, sir, don't know that.

Q His going out of the Cherokee Nation during the war, you know anything about that? A I know he came up there to Kansas.

Q When did he remove there? A I don't know exactly when he came, he came with old Uncle Mose Grubbs and Jonas Darter and them.

Q When was that? A That was right after the war, or time of the war, close onto that, right along there near the time they raided out of here.

- Q Well, when did he return? A I don't know when he returned.
- Q How long before the war was that? A Before the war, it wasn't before at all.
- Q It was after the war? A Yes, sir, he wasn't up there before the war.
- Q You don't know where he went to before the war? A No, sir.
- Q How long did you live in Kansas? A I have been in and out there ever since the close of the war, I came to Iola, up here to Chetopa, Kansas, when the first house was ever built.
- Q I will ask you if you are a citizen of the Cherokee Nation?
- A I am a married man here, I married into citizenship here.
- Q Just answer my question, yes or no? A I have never made no claim, no application for any claim.
- Q And you have no particular calling for a living? A I do anything that I can make an honest living at.
- Q Mention some of the things you do? A Haul, clean up, do anything, out wood, anything in general.
- Q How long do you work at any one particular work? A Just as long as that job is done, then I look for another.
- Q What do you realize out of these jobs? A Whatever I can get out of them, and when that is done I am looking for another one.
- Q How long have you been married? A I have been married twelve years, a little more.
- Q To whom were you married? A I was married to Louisa Ross.
- Q And you know Joe Buggerd? A Yes. I have been knowing him right around here for a number of years.
- Q How long have you known him right around here? A I have known him in and out I think about 20 years when I first been in and out, I have seen him at different places..
- Q Well now how long have you known him in and out in Kansas? A I told you how long, I told you he lived there but I don't know when he left there.
- Q What part of that in and out was in Kansas? A I must have knowed him seven or eight years right around Iola there and maybe longer.
- Q That was since the war? A Yes, he lived there.
- Q Didn't you testify a while ago that you have been knowing him for 35 years? A I did, I expect I have known him longer than that, I didn't say positive, I expect I have knowed him longer than that in my rounds, I didn't stay right around him all the time.
- Q 25 years of that time you have known him in the Cherokee Nation?
- A I didn't say positive I have known him that long right in one place, but I can say positively I have knowed him right here in the Cherokee Nation for 15 or 20 years.
- Q How long did you know your wife before you married? A I knowed her about three or four years.
- Q And you been married to her twelve years? A Yes, maybe longer.
- Q Where did you first meet her? A In Iola, Kansas.
- Q You married her in Kansas? A Yes, sir.
- Q Then when did you move to the Cherokee Nation with her? A Well when I first come down here with her, to the best of my knowledge, which I can prove by facts, little Ike Martin was a boy about that high.
- Q I don't know him, tell about how many years? A That must be close onto 25 or 30 years, longer I expect, little Ike I expect is 25 or 30, I used to know him, I used to come here and hire a horse and buggy and he take me around over the Nation.
- Q You knew your wife four years before you married? A I expect I knew her longer than that.
- Q Come down to the fact of it? A I haven't got any specified time how long I knowed her.
- Q I want to ask you the question? A Well I have done answered that.
- Q Now you say you knew your wife four years before you married her?
- A I expect I did and maybe longer.
- Q Well how much longer? A I didn't say how long.

Q You married her in Kansas? A Yes, sir.

Q Stayed there about 12 years with her? A Yes, sir, I stayed in different parts of Kansas.

Q And came to the Cherokee Nation with her? A Yes, sir.

Q Now how long have you lived in the Cherokee Nation with her?

A Right here in this town, I have been permanent in this town, about five years, permanent.

Q With you and your wife? A Yes, sir.

Q You said now that you knew him in all 35 years? A Knew who for 35 years?

Q Your wife, knew her for 35 years? A I am just telling the time and different places I have lived.

Q Didn't you tell you have known your wife altogether 35 years?

A May be longer.

Q And yet you knew her four years before you married her?

A I can't give you any positive time about that.

Q Lived with her 12 years in Kansas? A I can't give you any positive time, I lived with her about 12 years, I lived with her 12 years, she has been dead now about nine months, altogether will make about 12 years.

Q You lived with her 12 years in Kansas? A I didn't say I lived with her that long in Kansas, I say I lived, I expect I have lived with her that long.

Q The fact of the matter is you don't know anything about any of it?

A I know anybody I see, if I see you and anybody ask me if I see you I can tell them I see you.

Q Do you swear this Joe Lynch is the same one lived in Kansas, Yola Kansas, 40 years ago? A I didn't say 40, 30 he lived there, and I can prove by dozens of people.

Q How long? A I didn't tell you how long.

Q How long did you say? A I didn't say but I tell you he lived there.

Q How long did he live there? A I told you he lived there about seven or eight years around about the country and when he moved I don't know, it aint no use for him to say he didn't live there.

Q We don't propose to argue the question. A Well you talked like he didn't live there; he lived right there.

Q Now I want to go back with reference to the number of years you lived with your wife? A You needn't go back, I have told you all the reference you will get out of that. I told you that now, you are just losing time, I am not telling you the positive date about how long I lived, but I tell you what I can do, I have the papers down in my trunk will tell the dates, they tell you the dates, they are recorded and you can't dispute them.

Q Now according to your estimate you lived with and known your wife 16 years; is that right? A You can make it as you please, I have give it now according to my best knowledge, I kept no record of it.

Q In other words, you just came here to swear against Lynch? A I don't have it to do, I wouldn't lie for you if you were my daddy.

Q Now didn't you just come here to swear against Joe Lynch? A No, sir I haven't got nothing against the man, not a thing sir, but I don't propose to tell a lie for nobody, a man can't hire me to do that; no, sir; if I am acquainted with a man and a man ask me if I know him --

Q Well how many children did Joe have in Kansas? A Well I know one time me and my wife was down there, and I couldn't count them, I says, 2000, how many children have you got for Lord sakes, and she says, Mr. Cravens, you see them running around here like quails, count them, and I couldn't count them.

Q How many did you count? A I counted eleven or twelve, but I understand that he was the father of 22, I don't know it by the facts.

the last count he had 32 I think what his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Craven, how long have you known Joe Lynch, all told?
A I can't tell you exactly, all told, but you asked me how long did I know him, and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out ever since the close of the war.

Mr. Davenport: Did you have any neighbors up there at Iola, Kansas, do you remember the names of any that know about Joe being there?

A Yes, there is Dr. Charteon, Dan Harvelly, Bill Davis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably here, or their representatives.

A. S. McRea: Now your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedman cases D-383, D-384, D-385, D-386, D-387, D-429, D-450, and D-233.

Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedman D-376.

Note: Copy of testimony also should be filed in case of Robert Foster, D-522, and in D-270, as to children of Piley Curls and Nancy Curls.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of October, 1901.

[Signature]

Commissioner.

2710-383

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I. T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of JOE LYNCH ET AL., as Cherokee freedmen.

APPEARANCES:

Applicant appears in person and by attorney, A. S. McRea. Cherokee Nation by its representatives, W. W. Hastings and L. B. Bell.

SIMON LYNCH, being first duly sworn, testified as follows:

BY MR. McREA:

- Q What is your name? A Simon Lynch.
Q What is your age? A 74.
Q What is your post office? A Spavinaw.
Q Are you a recognized citizen of the Cherokee Nation? A I don't know, I guess I am, I hardly know.
Q Does your name appear upon the authenticated roll of 1880? A I reckon so, I don't know.
Q You are an applicant for citizenship in the Cherokee Nation, are you not? A Yes sir.
Q Are you acquainted with Joe Lynch, the applicant who made application for enrollment as a citizen of the Cherokee Nation on May 21, 1901? A Yes sir I know him all his life pretty near.

BY MR. HASTINGS:

Comes now the representatives of the Cherokee Nation and asks permission to interrogate this witness as to his competency to testify.

BY MR. HASTINGS to witness:

- Q Your name is Simon Lynch? A Yes sir.
Q You live in Saline District? A Yes sir.
Q You have lived there since the war? A Yes sir ever since.
Q Are you the same Simon Lynch that was convicted of the larceny of some hogs? A Yes sir, and I was not there when the hogs were stolen.
Q You were sent to the Cherokee jail at Tahlequah, Indian Territory? A Yes sir.

BY MR. McREA:

Comes now the attorney for the applicant and objects to the motive of examination relative to the competency of the witness for the reason that the witness having been convicted of some crime committed in the Cherokee Nation under the Tribal Government is no test of witnesses competency to give any testimony in cases of this character, in view of the fact that

under the laws of Congress enacted and put in force in the Indian Territory, the witness herein is now declared under and by virtue of said laws a United States citizen clothed with all the rights and privileges of other citizens of the United States.

BY THE COMMISSION:

Objection noted.

BY MR. HASTINGS:

Q You were convicted of stealing hogs from Charles Thompson, who was afterwards Chief of the Cherokee Nation? A That is what it was said.

Q That was the Cherokee penitentiary at that time at Tahlequah?

A I don't know what it was.

BY MR. McREA:

Q How long have you known Joe Lynch? A Ever since he was a little boy.

Q Was he a slave of a Cherokee citizen of Cherokee blood? A Yes sir.

Q Do you know whether or not of your own knowledge that Joe Lynch went out of the Cherokee Nation during the war of the rebellion?

A Yes sir.

Q Do you know to where he went? A No sir I don't know.

Q Do you know when he returned back to the Cherokee Nation? A Yes sir.

Q State when you first saw him in the Cherokee Nation after the war? A In the fall of '66.

Q At what place in the Cherokee Nation did you see him? A In the six mile bottom there at my house.

Q You were then living in the Cherokee Nation? A Yes sir.

Q Did you have any conversation with him? A Yes sir stayed all night with me.

Q Did he state to you at that time for what purpose he returned to the Cherokee Nation? A Coming to look out a home.

Q How long did he remain? A About three days.

Q Do you know where he went after that? A Said he was going back to Kansas.

Q When was the next time you saw him in the Cherokee Nation?

A About the first of February, he moved down.

Q Of the next year? A Yes sir.

Q Of 1867 was it? A Yes sir.

Q Did he bring his family out that time? A Yes sir.

Q You have known him to reside continuously in the Cherokee Nation ever since? A Never any where else that I know of.

Q How many persons did his family consist of at the time he returned in February, 1867? A One besides him and his wife.

BY MR. HASTINGS:

Q Where do you live now? A I live right there adjoining places to my old bosses' place in Saline District.

Q Were you living there at the time Joe Lynch come to your house as you have stated the first time? A No sir.

Q Where were you living at that time? A In six mile bottom on a place of George Clark's.

Q Then Joe never moved his family down here in 1866? A No sir.

Q And if any of these witnesses testify to that effect they testify to what was untrue? A I don't know what they testify.

Q He didn't move until I moved there in Saline District to my house.

Q When did you move to your house? A He moved to my house.

Q When did you move to your house? A In 1867.

- Q What time in 1867? A February first.
Q Of 1867? A Yes sir.
Q How long had you been over there before he come back? A I had been there about two months.
Q Then it was about two months after you moved over to your house before Joe Lynch brought his family? A Yes sir.
Q And you moved over there about the first of February, 1867?
A Yes sir.
Q Joe's first wife was related to you wasn't she? A He never had but one.
Q Was that wife related to Joe? A Joe's sister.
Q Why didn't you testify for Joe in this case up at Vinita? A He didn't want me, didn't call on me.
Q Did you ever testify for him before? A No sir.
Q You never testified for him before the Kern-Clifton roll? A No.
Q Nor before the Wallace court? A No sir.
Q Where did you make a crop in the year 1866? A Upon Cabin Creek.
Q On which side of Grand River? A On the west side.
Q When did you move there? A In the summer.
Q Summer of 1866? A Yes sir.
Q Then where did you go? A I come down there close to the old Military road at Mrs. Kall's old place.
Q Then where? A To the six mile bottom where George Clark let me have a place.
Q What time did you move? A In the fall.
Q Of 1866? A Yes sir.
Q What year is this? A I don't know.
Q What year was it that Wallace made his roll of freedmen? A I don't know, I can't keep no time of anything that way.
Q What year did Kern-Clifton make a roll? A I don't know.
Q Don't know any of these years? A No sir.
Q What kind of a team was Joe driving when he come down to your place? A An old sorrel mare and one bay.
Q What road did he come in coming to your place? A All roads, he started from Sulphur Springs and come right down over the mountain that is as far as I can tell you he come.
Q What Sulphur Springs was that? A The Bob Daniels old place.
Q On which side of the river was Bob Daniels' place? A West side.
Q Did he come by Watt West's place? A No sir.
Q How far did Watt West live from the road? A He did live on the side of the road when he come there.
Q Where did Joe Lynch settle when he first come to your house in '67 with his family? A Right where he is now.
Q That is the first place he ever settled? A Yes sir.
Q And he has been living right there ever since? A Yes sir.
Q How long did he stay at your house before he went and settled this place where he resides now? A He stayed there about two months I guess to the best of my knowledge.
Q Then he settled this place in the early summer? A No sir.
Q Or spring? A No sir, it was too late to make a crop.
Q Then he come down there too late in the spring of '67 to make a crop? A He worked at my place a little.
Q And went from your place to where he lives now? A Yes sir.
Q Built him a house? A Yes sir.
Q Did nobody come with him besides his family? A I don't recollect now.
Q What is his oldest child's name? A Hester.
Q And she was with him? A Yes sir.
Q Didn't have any other children at that time? A No sir.
Q You say you don't remember any other colored people coming with him? A No sir it has been so long I don't recollect.
Q You used to have his sister for your wife? A I have got her yet when I am at home.

BY MR. MORRIS:

- Q Did you ever vote in the Cherokee Nation? A Yes sir might near every election.
- Q Have you voted in the Cherokee Nation since the time you were convicted of this offense of which Mr. Hastings speaks? A Yes sir every time since never voted when I was a slave, voted since.
- Q You have enjoyed all the rights and privileges of a Cherokee citizen every since 1866, have you? A Yes sir.
- Q You speak of living on a place that you got from Mr. George Clark in 1866? A Yes sir.
- Q He recollects that does he not? A I guess so.
- Q How far do you live from that place that you rented from Mr. Clark with reference to the place you live on now? A About two and a half miles.

BY THE COMMISSION:

- Q Where did you go during the war? A Kansas.
- Q And when was it you returned to the Cherokee Nation? A February, 1866.
- Q That is when you came there, February, 1866? A Yes sir.
- Q How long had you been here did you say, until you saw Joe Lynch?
- A He come in the fall after I come here, yes sir, horse back.
- Q Was it cold weather then? A No sir not right cold, it was in the fall.
- Q He came to your place? A Yes sir come to Mr. Park's place where I was living.
- Q How long did he remain there Mr. Lynch? A Until spring.
- Q I am talking about him? A He stayed there about three days.
- Q Just on a visit? A He come down to look out a location.
- Q And then where did he go if you know? A He went back to Kansas, said he was.
- Q Did you first move from the George Clark place about the first day of February? A Yes sir.
- Q And you answered Mr. Hastings that you had been there about two months did you not when you saw Joe Lynch? A When he came back from Kansas I was living at George Clark's place.
- Q And the next time where were you living? A Where I live now.
- Q How long had you been there when you saw Joe Lynch the second time? A Two or three months.
- Q When did you go to where you are living now? A February I moved over there the first of the spring.
- Q February, 1867? A Yes sir.
- Q That is the story you want to tell the Commission is it? A That is what I have told.
- Q I have not misled you have I? A No sir I guess not.
- Q You want to tell the Commission that you moved over to where you are living now about the first of February, and you had been living there about two or three months when you saw Joe Lynch and his family? A Yes sir when they moved down.
- Q When he came to where you are now living in the spring of 1867 who did he have with him? A His wife.
- Q Who else? A His child.
- Q Wife and one child? A Yes sir.
- Q That is the child Hester? A Yes sir.
- Q So far as you know Hester and her mother had not been in the Cherokee Nation after they had left during the rebellion until you saw them where you now live? A That is right so far as I know.
- Q How was it that Joe Lynch came down and picked out a place?
- A That is what he said.
- Q Did he make any improvements or locate him a claim so far as you know? A Yes sir right where he lives.

- Q Did he improve it? A Put some logs around it, made a foundation of logs around it.
- Q Did he do that in three days time? A Yes sir I went and helped him.
- Q Was that on the prairie? A Yes sir.
- Q Was there any timber close there? A Yes sir, right south of it.

BY MR. McKEA:

- Q Do you remember that you stated in your examination in chief, when I asked you the question, when was the first time that you saw Joe Lynch in the Cherokee Nation, your answer was in the fall of '66, is that correct? A Yes sir.
- Q Then I asked you when was the next time you saw him, and your answer was about the first of February, 1867?
- Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to the leading questions that are being asked by the Attorney for the applicant.
- Commission: Objected noted.

- Q Did you make that statement? A Yes sir.
- Q When was the first time you saw Joe Lynch in the Cherokee Nation after the war? A Fall of '66.
- Q How long did he remain in the Cherokee Nation at that time?
- A About three days at my place.
- Q Did you have any conversation with him? A I talked with him all the time he stayed there.
- Q What did he say if anything with reference to coming back to establish his citizenship in the Cherokee Nation? A Said he come back home to located out a place.
- Q Did he locate a place at that time? A Yes sir.
- Q Do you know where? A Yes sir.
- Q Is it the present place he lives on? A Yes sir.
- Q When was the next time you saw him in the Cherokee Nation after the war? A In the spring, I don't know just what dates.
- Q Where were you living when he returned to the Cherokee Nation the second time? A Right where I live now.
- Q How long had you been living where you live now before Joe came back? A Not long, just a little while.
- Q Did he bring his family with him at that time? A Yes sir.
- Q You know what month it was that he brought his family to where you now live? A I don't know exactly.
- Q How long did he stay with you at that time? A He stayed until he built him a cabin, there where he lives now.
- Q That was in '67? A Yes sir.

BY MR. HASTINGS:

- Q You say that was about two or three months after you moved there from the George Clark place? A He stayed there two or three months with me.

BY MR. McKEA:

- Q It was two or three months before he moved to where he lives now?
- A Yes sir.
- Q And you stated that you hadn't been where you live now very long until he come there? A Yes sir.

BY MR. HASTINGS:

- Q You have testified that you moved over to this place from the George Clark place - about sometime in February, 1867? A Yes sir.
- Q You have testified that you were over there about two or three months when Joe Lynch came back the second time with his family?
- A Yes sir, I was.

BY MR. BELL:

- Q Was not there no other colored people living around there?
- A Crap and Art.
- Q Did they come to see Buzzard? A Yes sir they lived at the old bosses place, got it from Lon Lynch.

BY MR. HASTINGS:

- Q You are positive that this child Hester was born in Kansas, and that they brought it down here with them? A Yes sir.
- Q About how old was Hester when they come down? A I don't know.
- Q About how old? A I can't tell she was a child.
- Q Running around, walking and talking? A Sucking I believe.
- Q Was she a year old? A I can't tell how old she was, don't know that.

LEWIS LYNCH, being first duly sworn, testified as follows:

BY MR. McREA:

- Q What is your name? A Lewis Lynch.
- Q What is your age? A Near about 50.
- Q What is your post office address? A Spavinaw.
- Q Are you a recognized citizen of the Cherokee Nation? A Claim to be, yes sir.
- Q Is your name on the Authenticated roll of 1880? A Yes sir.
- Q Are you acquainted with Joe Lynch? A Know him by the name of Joe Buzzard, yes sir.
- Q He is the same person present and an applicant for citizenship in the Cherokee Nation? A Yes sir.
- Q How long have you known him? A All my life.
- Q Did he belong to a citizen of Cherokee blood of the Cherokee Nation before the war? A Yes sir.
- Q To whom did he belong? A To Joe Lynch.
- Q Did he go out of the Cherokee Nation during the war of the rebellion? A Yes sir.
- Q Do you know to where he went? A To Kansas.
- Q Do you know when he returned back to the Cherokee Nation with reference to the Treaty? A They said it was in 1866, I was quite a boy and didn't keep records of the dates.
- Q Did you see him in the Cherokee Nation after the war? A Yes sir.
- Q What time after the war? A It was along in the winter.
- Q Of what year do you remember? A They say it was '66, I kept no records of the dates at all.
- Q Where did you see him in the Cherokee Nation? A At my father's.
- Q Who was your father? A Simon Lynch.
- Q The gentleman who has just testified? A Yes sir.
- Q Were you present when Joe Lynch came to your father's house?
- A Yes sir.
- Q How did he come? A Horse back.
- Q How long did he remain at your father's house? A Two or three days not longer.

- Q Did he say anything with reference to coming down for the purpose of establishing his citizenship of the Cherokee Nation at that time? A I didn't hear him at that time.
- Q Where did he go to after he left your father's house at that time? A The old folks said he went back to Kansas.
- Q Did you see him in the Cherokee Nation after that? A Yes sir.
- Q About how long after the first time you saw him? A It was along in the spring the next time.
- Q Of the next year? A Yes sir.
- Q Where did you see him then? A In Saline District.
- Q At what place? A At my father's where we lived, we had moved out of Delaware District into Saline District.
- Q Did he bring any one besides himself at that time? A He brought his family.
- Q How many persons did it consist of at that time? A Two to my best knowledge, they were his wife and daughter.
- Q Was it his present wife? A Yes sir.
- Q Do you know the name of the daughter? A Hester.
- Q Hester who? A Hester Foster now.
- Q Did he at that time begin making preparation for a permanent location in the Cherokee Nation? A Yes sir the last time he come he did.
- Q Where did he make that location? A In Delaware District.
- Q The place where he now lives? A Yes sir.
- Q And that was in the spring you say of '67? A Yes sir to the best of my knowledge, I don't know anything about the dates, but it was the next spring after I saw him first.
- Q Where did he make his home while making preparation for the place? A With my father and mother.
- Q How long did he stay there? A I disremember just how long.
- Q But you do know that he moved from your father's place over to the place where he now lives? A Yes sir.
- Q Have you known him to be continuously in the Cherokee Nation ever since that time? A Yes sir.
- Q You are close neighbors are you not? A About two and a half miles.

BY MR. HASTINGS:

- Q Joe Lynch, the applicant, is an uncle of yours is he not? A Yes sir.
- Q You never took the stand to testify for him before have you? A No sir.
- Q You don't know very much about this you saw? A No sir.
- Q You only know the dates they told you they were, that is all you are attempting to testify to? A Yes sir.
- Q You know what date Mr. Wallace made a roll of Cherokee freedmen? A No sir.
- Q Do you know when that big freedman payment was made? A Which one
- Q The last one? A No sir, I don't.
- Q You don't know when Kern-Clifton made a roll? A No sir.
- Q What year were you married? A I don't know that.
- Q Are you a married man? A Yes sir.
- Q Got some children? A Yes sir.
- Q What is the date of the birth of the first one, what year? A I don't know.
- Q You don't know no years do you? A No sir not particularly.
- Q You and your father and the attorney for the applicant talked over this case to what you were going to testify to? A No sir.
- Q Never mentioned it? A No sir.

- Q Never said anything to Mr. McRea outside? A No sir.
- Q He never talked to you about what you knew about the case? A Yes sir, but not on the outside.
- Q Inside of the room then? A Yes sir, outside is outside, and inside is inside.
- Q He went over it with you and your father? A Yes sir.
- Q And you father told you about what he knew about it in your presence and you testified to the same thing? A No sir, I didn't.
- Q You don't know the year do you? A Which year.
- Q When you first saw Joe Lynch? A No sir, they claim it was in 1866.
- Q They claim it and that is all you know about it isn't it? A Yes sir.
- Q Where was you born? A In the Cherokee Nation.
- Q Where was you living when Joe Lynch moved his family down there? A In Saline District.
- Q On whose place? A Simon Lynch's place.
- Q Same place you are living now? A Same place he is living.
- Q He was living right there when he moved his family down where he is living now? A Yes sir.
- Q Are you sure he had one child? A That is all I remember.
- Q You remember that one? A Yes sir.
- Q If Joe Lynch swears that he didn't have that child, he is mistaken isn't he? A I suppose he is.
- Q Do you know he is? A Yes sir if he swears that he didn't have it when he come.
- Q About how old was Hester when they moved there? A I don't know.
- Q You remember they had a child, how big was it? A A good big child, large enough to be walking.
- Q Walking? A Walking, yes sir.
- Q Talking? A I don't know about that.
- Q Did he come the next time in a wagon? A Yes sir.
- Q Do you remember what kind of horses he had? A No sir.
- Q They didn't tell you yesterday about that sorrel team? A No sir.
- Q Didn't you hear your father say that? A No sir.
- Q Your father told you yesterday that he had moved from one place to another? A No sir.
- Q Didn't tell you that? A No sir, I knew that.
- Q But you don't know what year you moved? A No sir.
- Q You don't know anything about the years? A No sir.
- Q You don't know a single year in which a single one of your children were born do you? A Yes sir.
- Q What year was the first one born? A I couldn't say exactly.
- Q Then you don't know do you? A No I don't know that I could positively say now.
- Q You don't know what year only what they said when Joe Lynch come back do you? A No sir.
- Q You don't know what year you moved to the place where your father lives now, only what you were told? A No sir.
- Q How long had you been living there when Joe came back? A Not quite a year we moved there in the winter and the next spring I saw Joe Lynch.
- Q Simon had been living where he lives now for about a year when Joe came back? A No sir not a year.
- Q About how long? A Moved over in the winter and I saw Joe the following spring.
- Q How long had your father been living there when Joe brought his family? A Might have been three or four months.
- Q Is that your best judgment? A Yes sir.

- Q Had you put in corn? A No sir.
Q Fixing to put in corn? A Yes sir.
Q Do you know what month your father moved there? A No sir.
Q You don't know what year? A No sir.
Q What year is this? A I don't know exactly.
Q You don't know what year you were born in do you? A No sir.
Q How many children have you? A Three.
Q What year was the second one born in? A I don't know.

V. A. WEST, being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. HASTINGS:

- Q What is your name? A W. A. West.
Q What is your age? A 63.
Q What is your post office address? A Spavinaw.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Have you always lived, with the exception of the war, in the Cherokee Nation? A Yes sir.
Q Is that in Saline District? A Yes sir.
Q Were you in the army during the war? A Yes sir.
Q Where did you settle first after the war? A My permanent house was on the road there, on the Military road north of Grand River there where I lived.
Q When did you settle there? A About 1867, commenced it in '67 and finished it that winter, I commenced in the summer like getting out the lumber.
Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Do you know where he now lives? A Yes sir I presume I do, at the same place where he has lived, I haven't been at his house lately.
Q You have been at his house? A Yes sir, I have been there often.
Q It is claimed that he lives at the same place? A Yes sir.
Q How far is that from where you formerly lived? A It is about two and a half miles or three miles, somewhere along there, I always called it about two miles.
Q I will ask you if you knew him when he lived there that near you? A Yes sir.
Q When did he first come back to the Cherokee Nation after the war? A To the best of my recollection he come back in 1868.
Q Were you living at this place you had made? A Yes sir.
Q And you commenced that in 1867? A Yes sir.
Q What time in '67 did you commence that place? A I commenced getting out the lumber along in the spring and summer and I lived in a tent on the same road about a quarter from that place.
Q Were you living in the house when you saw this applicant? A Yes sir.
Q Where was he going? A He said he was going from Kansas, coming there to make a home in the Cherokee Nation and he inquired at my house where Simon Lynch lived.
Q Did you direct him to where Simon Lynch lived? A Yes sir, I told him Simon Lynch lived across the river somewhere about the old Lynch farm.
Q Was Joe Lynch in a wagon? A Yes sir.
Q Did he have the members of his family with him? A He had his wife and one child, as well as I remember.
Q Do you remember what kind of a team he had? A He had just a common pony team.

- Q Was your house on this old Military road? A Yes sir right along the edge of the road.
- Q When did you get that house completed, was you moved into it? A I moved into it in the fall of 1867.
- Q and it was not until after that time that he come along in a wagon inquiring for Simon Lynch's? A No sir, in 1868.
- Q You think it was the next year? A Yes sir the next year, and may be the following.
- Q And it couldn't have been earlier than 1868? A No sir, nor later '68 is the year as well as I remember.
- Q Was any one else along with him in the wagon besides his family? A No sir.
- Q He said he was from Kansas, did he? A Yes sir.
- Q And he was inquiring the way to Simon Lynch's? A Yes sir.
- Q He didn't know then at that time where Simon lived? A No sir I reckon not by his inquiring.
- Q This same Simon that you have seen here as a witness in this case? A Yes sir the same Simon.

BY MR. McREA:

- Q You have testified in this case once before haven't you? A Yes sir.
- Q And you haven't any improvement to make by way of testimony on what you have already testified to? A No not that I know of.
- Q Do you know where Simon Lynch was living in 1866? A Across the river.
- Q He was in the Cherokee Nation in 1866 was he? A Yes sir.

BY MR. HASTINGS:

- Q Do you know of Simon Lynch's having been convicted of stealing hogs? A I have heard he was convicted.
- Q In the Cherokee courts? A Yes sir.
- Q Sent to the Cherokee penitentiary? A Yes sir.

JOE L. THOMPSON, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Joe L. Thompson.
- Q What is your age? A 66.
- Q What is your post office address? A Vinita.
- Q Are you a Cherokee citizen by blood? A Yes sir.
- Q Where do you live, you don't live in the town of Vinita do you? A 12 Miles south of Vinita.
- Q How far from Grand River? A About three miles.
- Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you remain in the Cherokee Nation during the war? A No sir.
- Q Where did you go, south? A Went to Texas.
- Q What year did you return after the war? A I came back in the winter of '67, I came to Fort Gibson.
- Q When did you land up there near where you live on Grand River? A In the spring of '68 I came to the place where I now live and made a crop, in the spring of '69 I moved on the Arsana place.
- Q Do you know where the applicant, Joe Lynch, now lives? A Yes sir
- Q How far does he live from you? A About three miles I guess.
- Q Was he living there when you came back? A No sir, not to the best of my recollection.
- Q Do you remember of his coming back there? A It was the best of my recollection, that he moved there to that place about 1869.

- Q You say he wasn't living there when you returned? A No sir.
Q And you came back yourself in the early spring of 1868? A Yes sir.
Q Was he living there when you come back in 1868? A If he was I didn't know it.
Q What is your best judgment? A He was not living where he is living now.
Q It is plain to him that he settled there the first place that he settled in the Cherokee Nation? A The best of my recollection is he never moved to the place where he lives until 1869.
Q Was that the first you saw of him in the Cherokee Nation after the war? A Yes sir.
Q Did you know him before the war? A Yes sir.
Q Did you know his owner? A Yes sir his owner was my uncle.
Q Where was you living in 1869 when you first saw this applicant? A On what was called the Arsens place.
Q How far from Simon Lynch's? A About four or five miles the way you have to go I reckon.
Q You feel positive that this applicant was not there when you first came back in 1868? A No sir there was no improvements there when I come back in 1868.
Q Do you know Simon Lynch? A Yes sir.
Q Do you know of his being convicted of stealing hogs in the Cherokee Nation? A No sir.
Q You have heard of it? A If I did, I don't remember it.
Q You live there in Tahlequah District? A Yes sir.

BY MR. McCREA:

- Q I understood you state that you did not return to the Cherokee Nation until sometime in 1867, is that right? A Yes sir.
Q Where were you in '66? A I guess I was in Texas.
Q If Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866 and his testimony is born out by Ed Lynch and Simon Lynch, are you prepared to say that that is not true? A I haven't said so.
Q You would not say so would you? A I was not here in 1866.
Q You have testified in this case before, haven't you? A I don't know, I guess so.
Q And you are not now prepared to add nor detract anything from the statements you first made in the case, at this time are you?
A No sir, I don't know that I am.

G. W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A G. W. Clark.
Q What is your post office address? A Vinita.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Were you in the Union army during the war? A Yes sir, I served nearly three years in the army.
Q When was you married? A I was married on the 8th of June, 1865.
Q Just after the war? A Yes sir, eight days after I was mustered out of the service.
Q Where did you first settle down after the war? A Upon the river in the neighborhood of where I live now.
Q Up in the north end of Saline? A Yes sir, it was Saline then but it is in Cooweescoowee now I think.

- Q That was just across the river from the north end of Saline?
A Yes sir, I lived on the west side of the river I made a crop there in '66.
- Q Where did you make a crop in '67? A I moved in the fall of '65 along in December to another place about ten or twelve miles from there, the place where I was, to a place in Delaware District known as six mile bottom.
- Q Near the old Joe Lynch place? A Yes sir.
- Q On which side of the river? A On the same side, west side.
- Q That was in the fall of '67? A No sir, fall of '66.
- Q Where did you live in the year 1867? A I lived there four or five years.
- Q Continuously? A Yes sir.
- Q Did you know the applicant, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you know him before the war? A I saw him but I don't say that I was acquainted with him.
- Q You knew his owners? A Yes sir I knew old Uncle Joe Lynch.
- Q Was he a relative of yours? A No sir.
- Q Do you know where this applicant now lives? A Yes sir, I am well acquainted with the place, about two to two and a half miles from where I lived four or five years.
- Q You moved up there in the fall of '66? A Yes sir.
- Q And you lived there four or five years? A Yes sir, may be six.
- Q When did he move back to this place after the war? A The first I recollect of seeing him I seen him at old man Simon's place, old man Simon in the fall of '66 lived on my place in this six mile bottom, after I moved there I let him have some house and lived there that winter and early in the spring of '67 he moved to what is known as the old Joe Lynch bottom.
- Q You mean Simon? A Yes sir, I loaned him a yoke of steers to do the breaking he did there.
- Q How long after you moved to this place was it before you saw Joe Lynch at Simon's? A I didn't see him there for a couple of years.
- Q How long was it after you moved to this place where you moved in '66 before Joe Lynch came there and make this improvement? A My recollection is that he didn't make this improvement the first year after I come there.
- Q You think the first time you saw Joe was at Simon's? A That is the first time I saw him.
- Q Where was Simon living then? A Where I located him on the east side of the river.
- Q That was on your place? A No sir.
- Q And you think that was to your best judgment, 1868? A It was 1868 or '69.
- Q And you owned the place where Joe Lynch afterwards built? A Yes sir.
- Q Were you acquainted with the country before he built there?
A Yes sir, that was on the road there where I did the most of my passing.
- Q Did you travel that road frequently? A Yes sir.
- Q About how far did Joe Lynch the applicant located from this road?
A He located on a little ridge about 150 or 200 yards from the road, it may have been more or less.
- Q The place could be seen easily from the road could it? A Yes sir.
- Q Nothing in the way? A He built his house there on the prairie.
- Q You know Simon Lynch, who has testified in this case? A Yes sir, I am well acquainted with him.

Q Do you know of his having been convicted up there in the Cherokee courts for stealing hogs? A I had moved away from there then, but I heard of it.

Mr. McRea: We object to hearsay.

Commission: Objection noted.

Q It was a common report was it? A He was convicted, no common report about it.

Q What official positions have you held, you have been a member of the Cherokee Senate and Cherokee Council a number of times?

A Yes sir I was in office 16 years, I have---

Q Also on the Circuit bench? A Yes sir, eight years.

Q Solicitor of Saline District? A Two years.

Q And you were in the Union army? A Yes sir, in the third regiment

Q And your best judgment is that Joe Lynch came back in '68 or '69? A That is when I saw him.

Q And you were living there in that same neighborhood, and he located out there on a little prairie near the road that led to the store at which you traded, and where there was a black smith shop? A It was a big prairie, three or four miles across the neck of it, it reaches from there I expect to Chatopa. From my place back there is a wood land hilly place until you get down to where the house was, and there was a little prairie there where I lived but he lived on the main big prairie.

BY MR. BELL:

Q The place that you stayed up there in six mile bottom, was that that Dirteater place? A It was known as the Jim Daniel's place before the war, I bought it from the estate.

Q Now is that six mile bottom situated with reference to the river?

A The river bends around it.

Q The river is on three sides of it? A Yes sir.

Q Now in getting from your house to this store you speak about, there was only the one road? A Yes sir just one road.

Q There would have been no way of getting to your store by a road except by taking another road that didn't go in that direction?

A No sir it went north.

Q But you went west from your house to the store? A Yes sir, nearly due west according to the section road.

Q That was the only road with a direct route to the store? A Yes sir.

Q That road passes then 150 or 200 yards of the place that Joe Lynch built? A Yes sir, and I think he is living there yet.

Q The McCrary store was at the Kell place? A Yes sir.

Q It was the only trading point in that immediate neighborhood?

A Yes sir, the only one anywhere around there.

Q If Buzzard had this house built there in '67, you think you would have seen it? A I know I would because there was a little circumstance there, me and Walker Daniels got after a bull right there where he built that house, and right over the swag there, there in running him up there, he runed past him and the bull killed his horse or mare, hooked his insides out.

Q That was in '67? A Yes sir.

Q There was no house there then? A No sir the first that was built was built this side of there. That was before he put that up on the left hand side of the road as you went, a colored fellow fellow by the name of Bony Daniels, and the next was the house that Joe lives in.

- Q Then there was no other houses therein that country right then?
A No sir, no other house, I made a claim right across the next ridge and I let Andy Frye have that.
Q Nobody living in there? A No sir.
Q Indians or nobody else? A Nobody at all.
Q And it was in '68 or '69 before you discovered Buzzard there in this house? A My opinion is he didn't build a house there in '69, and he stayed a year in the bottom before he built a house.

BY MR. McREA:

- Q When was the first time that you saw Joe Lynch in the Cherokee Nation after the war? A It was over at Simon's in '68 or '69, I think '69.
Q You are not positive as to which? A No sir.
Q Now where was he when you saw him at that time? A He was in and around Uncle Simon's there on the place, he come in there with a pony team, and had a wife and child.
Q Were you present when he came? A No sir.
Q That was what you heard? A There wasn't but a few people there and when a man dropped in the neighborhood we knew he was a stranger, it wasn't settled like it is now, wasn't many people in the country.
Q Where was you living in the fall of '66? A I moved on this place that we were above referring to in that bottom east of where Joe Lynch built his place.
Q How far with reference to where Simon Lynch lived at that time in '66 on your place? A There were two houses on the place he occupied, one of the houses from the house I lived in right across the hill north, I expect it was 150 or 200 yards, one of the houses that he was in, that he kept one of his wives in. He kept another house, I will tell you about that. It was about a quarter of a mile south of the place and he kept his other wife there.
Q Are you prepared to dispute the statement made by Simon Lynch and Joe Lynch, that Joe Lynch came to Simon Lynch's place where he was living in the fall of '66 on horse back? A If he did I didn't see him.
Q He come have come though without your having seen him, couldn't he? A I guess he could have without my seeing him, by coming in the night and going away.
Q Answer yes or no? A He could have come, but I never seen him.
Q I understood you to say in your examination in chief that you had no special acquaintance with Joe Lynch before the war? A No sir that is right.
Q Then the first time that you ever seen him to know him was sometime in the year 1868 or '69, is that correct? A Yes sir.
Q He could have been in and around Simon's at the time he said without your knowing him in view of the fact that you had no acquaintance with him? A He couldn't have been around there very much because I watched every body pretty close them times.
Q Sometimes? A All the time.
Q You had no acquaintance with his family? A No sir, the first time I saw his wife she was at Simon's and had a child, and then they had one regular every year.
Q You never testified before in this case? A No sir.
Q You knew all about the facts that you are testifying to now in 1901 and 1902, didn't you? A Yes sir, of course I would have, I come acquainted with them in '67 and '68.

- Q You knew these facts at the time the applicant made his application for enrollment? A Yes sir.
- Q And you were not called upon at that time to testify? A No sir.
- Q When was the first time that your attention was called to the fact that you would be required to testify in this case, Mr. Clark? A I don't know, think it has been more than three or four weeks ago that I received a notice from the Commission that I was summons here in this case, and it read like I had testified in the case, but I couldn't recollect that I had testified in the case. I was very well acquainted with this fellow. He was hard up and we furnished him milk all of the time, my wife and I, and she knew him better than I did, he carried milk from our house all the time, we treated him as well as we could.
- Q Do you know how long Joe had been at Simon Lynch's at the time you first saw him in '68 or '69? A No sir, I couldn't say the exact time, might have been a week or two or maybe longer.

BY MR. HASTINGS:

- Q I believe you stated that you people sort of kept a watch on the people who came into the country immediately after the war?
- A Yes sir.
- Q It was necessary in those days, was it not. A Yes sir, very necessary.
- Q And for that reason you knew about everybody that came around in your neighborhood? A Yes sir I watched everybody.
- Q You knew when you first saw Joe Lynch over at Simon's that he was a newcomer? A Yes sir, there was but a few of us and we knew when a new man came there.

BY MR. McREA:

- Q Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866, are you prepared to state upon your own knowledge that he didn't return up there up there at that time?
- A No he didn't return up there, I aint prepared to say in the fall whether he returned there or not.
- Q You don't know whether he did or not? A No sir.

BY MR. HASTINGS:

- Q You know you never heard of him returning there in the fall of 1866? A No sir.

BY MR. McREA:

Objected to for the reason that it is incompetent, irrelevant, and inadmissible.

COMMISSION: Objection noted.

BY THE COMMISSION:

- Q When did you first come up in that neighborhood where you are living now and where Joe Lynch lives now? A I aint living there now.
- Q You went there after the war? A I went there several times in the summer, I think I traded for the place along in August, during the summer of '67. Summer of '66 after this Treaty was made on the 19th of July, 1866.
- Q You moved up there close to where Joe Lynch now lives in December, 1867? A '66.
- Q December, 1866? A Yes sir.
- Q You knew Mr. Clark where Simon Lynch was living when you moved up there, did you? A Yes sir, I let him move over there on my place, after I got it:

- Q From your knowledge of the people and condition as they were and the nature of the country, can you state to this Commission positively that Joe Lynch and his family did not come to that neighborhood in the Cherokee Nation until about 1868? A 1868 or '69.
- Q If at any time after December, 1866, the applicant and his family had come to that portion of the Cherokee Nation, you think you would have known it? A Yes sir, known it after a day.
- Q You don't know as to whether or not Joe Lynch himself might not before at Simon Lynch's horse back in the fall of '66 and stayed three days as they claim? A Might have been at Simon's, but he wasn't living there in the fall, he was over at the other place about six miles from there, he might have been there. This road that I told you that runs to this trading point, he lived about a mile from that down in the bottom, right above where the Military road crossed Cabin Creek.
- Q How far from where he lives now? A I suppose it is four or five miles on a direct line now since the lines were run out.
- Q Did you ever have a conversation with Joe Lynch shortly after he returned there with reference as to whether or not that was his first trip to the Cherokee Nation after the war? A No sir.
- Q You never heard him say whether or not that was his first trip? A I don't know as I ever did.
- Q Do you know whether in the fall of 1866 that he made any foundation of a house? A He never made none there where he is living now.
- Q How old was this child that Joe Lynch and his wife brought there with them? A It seemed to be in his wife's lap.
- Q A year old probably? A I don't think it was a year old. I don't think he let them get a year old before he had another one.

C A S E C L O S E D .

-----oOo-----

H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled case, and that the above and foregoing is a true and correct copy of his stenographic notes thereof.

(Signed) H. M. Vance.

Subscribed and sworn to before me this 14 day of December, 1904.

(SEAL)

(Signed) Charles H. Sawyer
Notary Public.

Maggie Kennedy, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

Maggie Kennedy

Subscribed and sworn to before me this the 23rd day of December, 1904

Charles H. Sawyer
Notary Public.

NOTICE OF HEARING
ON THE PETITION OF THE
COMMISSION TO FIVE TRIBES

THE COMMISSION TO FIVE TRIBES
DOES HEREBY GIVE NOTICE THAT IT WILL
HEAR THE PETITION OF THE COMMISSION TO FIVE TRIBES
ON THE MATTER OF THE PETITION OF THE COMMISSION TO FIVE TRIBES
ON THE MATTER OF THE PETITION OF THE COMMISSION TO FIVE TRIBES

AT THE HEARING, THE COMMISSION TO FIVE TRIBES
WILL CONSIDER THE PETITION OF THE COMMISSION TO FIVE TRIBES
ON THE MATTER OF THE PETITION OF THE COMMISSION TO FIVE TRIBES

THE COMMISSION TO FIVE TRIBES
DOES HEREBY GIVE NOTICE THAT IT WILL
HEAR THE PETITION OF THE COMMISSION TO FIVE TRIBES
ON THE MATTER OF THE PETITION OF THE COMMISSION TO FIVE TRIBES
ON THE MATTER OF THE PETITION OF THE COMMISSION TO FIVE TRIBES

FILED
DEC. 17 1994
COMMISSION TO FIVE TRIBES

RECEIVED
DEC 17 1994
U.S. DEPT. OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

[Handwritten signature]

Cherokee Freedmen D-383

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., NOVEMBER 17, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Hester Foster, et al., as Cherokee Freedmen.

APPEARANCES:

Applicant by Attorney, A. S. McRea,
Cherokee Nation by Attorney, W. W. Hastings;

BY MR. McREA:

Comes now the attorney for the applicant and asks that a copy of the testimony taken in the matter of the application of Joe Lynch, et al., Cherokee Freedmen D-376, be made a part of the record in the matter of the application for the enrollment of Hester Foster, et al., Cherokee Freedmen D-383.

BY THE COMMISSION:

The request of the attorney for the applicant will be complied with and copies of the testimony referred to will be filed with and made a part of the record in this case.

-o-o-o;-o-o-

H. M. Vance, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full all proceedings had in the above entitled cause on the 17th day of November, 1904, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said date.

H. M. Vance

Subscribed and sworn to before me this 17 day of December, 1904

C. H. L. L. Hastings

Notary Public

G.M.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee Freedmen, consolidating the applications of:

Joe Lynch et al.,	Cherokee Freedmen D	376
Robert Foster,	" "	D 522
Hester Foster et al.,	" "	D 583
Arthur Lynch,	" "	D 384
Cyrus Lynch	" "	D 385
John Lynch	" "	D 386
Vina Benton et al.,	" "	D 387
Nancy Curle et al.,	" "	D 429
Rachel Downing et al.,	" "	D 430
Martha Lynch et al.,	" "	D 1077.

-1-

D E C I S I O N .

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Joe Lynch for himself and wife, Sophia Lynch, and minor children, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle J. (Jane), Ethel J. (Jane) and Josephine Foster; thereafter, on October 30, 1902, there was filed with this Commission an affidavit showing the birth, on March 22, 1902, of Arthur Foster, child of the applicant, Hester Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and illegitimate minor child, Lula Buffington; by Walter Downing for himself, and

wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; thereafter, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 26, 1902, of Hurbert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Leo B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curls, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Leo B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Hurbert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 18, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curls, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Leo B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said appli-

cants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Hurbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, John and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curle and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedman enrollment cards No. D 429 and D 1077, it appears that one John Buffington is the father of the said applicant, Lula Buffington, and that one Watson Hicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Leo B. (Bennett) Lynch. But one John Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 555-R 271), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Hicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04) Minnie Duncan, et al. (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Martha Albert, et al. (I.T.D. 4732-04) and Moses Ross (I.T.D. 6056-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Hester Foster, James Foster, Pearl J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and John Lynch, Vina Benton and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Leo B. (Bennett) Lynch, as Cherokee freedmen should be denied, under the provisions of section twenty-one of

the Act of Congress below noted; and that Herbert Downing should be unrolled as a Cherokee freedman, in accordance with the provisions of section twenty-one of the Act of Congress approved June 23, 1892 (52 Stat. 490), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tame Dixby.

(SIGNED).

Chairman

(SIGNED).

T. B. Needles.

Commissioner

(SIGNED).

C. R. Breckinridge.

Commissioner

Dated at Muskogee, Indian Territory.

this JUN 16 1905

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al., for enrollment as Cherokee freedmen, consolidating the applications of:

Joe Lynch et al	Cherokee Freedmen D 376
Hester Foster et al	Cherokee Freedmen D 383
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Benton et al	Cherokee Freedmen D 387
Nancy Curle et al	Cherokee Freedmen D 429
Rachel Downing et al	Cherokee Freedmen D 430
Martha Lynch et al	Cherokee Freedmen D 1077

D E C I S I O N.

The record herein shows that applications for enrollment, as Cherokee freedmen, were made to this Commission by Joe Lynch for himself, his wife, Sophia Lynch, and minor children, Klisa, Cynthia J., Randolph, Ruth and Jackson Lynch; by Hester Foster for herself and minor children, James, Pearlle J., Ethel J. and Josephine Foster; that subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission showing the birth of Arthur Foster; by Arthur Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and minor child, Lula Buffington; by Walter Downing for himself and wife, Rachel Downing; that subsequent to the date of the original application a birth affidavit which is made a part of the record herein, was filed with the Commission showing the birth of Hubert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Martha Lynch for herself and minor children, Jessie M. and Leo W. Lynch.

The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitacre, trustee etc., vs. Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1866 and are descendants of and, with the exception of Hubert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of none of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Hubert Downing was born April 26, 1902; that he is the son of Walter Downing who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored," and that the said Walter Downing, father of said Hubert Downing, has continuously resided in the Cherokee Nation since 1880.

It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Elias Lynch, Cynthia J. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Hester Foster, James Foster, Pearl J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Vina Denton, Stella Denton, Nancy Gwily, Lula Haffington, Rachel Downing, Martha Lynch, Jennie M. Lynch and Lee B. Lynch, as Cherokee freedmen, should be denied under the provisions of section twenty-one of the act of Congress approved June 20, 1896 (50 Stat., 495); and it is further the opinion of this Commission that the said Herbert Downing should be enrolled as a Cherokee freedman, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Signed.	Wm. B. B. B.	Chairman.
Signed	T. B. Hootles,	Commissioner.
Signed	C. B. Brockbridge,	Commissioner.
Signed	V. E. Stanley	Commissioner.

Muskogee, Indian Territory,

this 2nd day of May, 1906.

70383

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
OCT 11 1901



ACTING CHAIRMAN

COMMISSIONERS:
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita I Oct 11 1901

Received of the Commission to the Five Civilized Tribes
one copy of the testimony in the matter of the application of
Walter Foster et al for enrollment as
Freedmen of the Cherokee Nation.

No.

70383

A. S. McRea
Atty for applicants

88 F.D. 383

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901.

Given under my hand this.....
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

..... day of *Sept*, 1901.
A. S. M. Ken
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the..... day of..... A. D. 1901

Subscribed and sworn to before me
this..... day of..... A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 12 1901

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Hester Foster
for enrollment as a Cherokee Freedman:

Case No. F. D. 383

To Hester Foster or A. S. McRea, Chelso, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: 20 c t. 1st at 8 o'clock A. M.
A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 11th day of Sept., 1901.

L B Bell

Attorneys for the Cherokee Nation.

COPY

20 72383

IN RE

Application for Enrollment of

INFANT CHILD

Arthur Foster

as a citizen of

Cherokee

Nation

Approved *Oct 30* 1902.

C. R. Breckinridge.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED

OCT 30 1902

[Signature]

CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Arthur Foster, born on the 28th day of March, 1902.
(Here insert name of child.)
Name of Father: Robert Foster a citizen of the Cherokee Nation.
Name of Mother: Hester Foster a citizen of the Cherokee Nation.
Postoffice: Vinita I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Hester Foster, on oath state that I am 34
years of age and a citizen by blood of the Cherokee Nation;
that I am the lawful wife of Robert Foster, who is a citizen, by
blood of the Cherokee Nation; that a male child was
(Male or Female.)
born to me on 28th day of March, 1902; that said child has been named
Arthur Foster, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Sub.Subscribed and sworn to before me this 27th day of October, 1902.

Frank L. Burchhalter
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Nancy Thompson, a midwife, on oath state that I
attended on Mrs. Hester Foster, wife of Robert Foster,
on the 28th day of March, 1902; that there was born to her on said date a
(Male or Female.)
child; that said child is now living and is said to have been named Arthur Foster.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Sub.Subscribed and sworn to before me this 27th day of Oct., 1902.

Frank L. Burchhalter
Notary Public.

Charles Friedman
COPY
20
2983

IN RE

Application for Enrollment of
INFANT CHILD

Ethel J. Foster
as a citizen of

Charles

Nation

Approved MAY 22 1901 190

I. B. Neelands,

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED

MAY 22 1901

[Signature] CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Ethel Jane Foster, born on the 15th day of April, 1 1899
(Name insert name of child.)
Name of Father: Robert Foster a citizen of the Cherokee Nation.
Name of Mother: Hester Foster a citizen of the Cherokee Nation.
Postoffice Vinita I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Hester Foster, on oath state that I am 32
years of age and a citizen by adoption of the Cherokee Nation;
that I am the lawful wife of Robert Foster, who is a citizen, by
adoption of the Cherokee Nation; that a Female child was
(Male or Female.)
born to me on 15th day of April, 1 1899; that said child has been named
Ethel Jane Foster, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Subscribed and sworn to before me this 26th day of April, 1901.

Seal.

G. F. Birley

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Millie Fay, a midwife, on oath state that I
attended on Mrs. Hester Foster, wife of Robert Foster
on the 15th day of April, 1 1899; that there was born to her on said date a Female
(Male or Female.)
child; that said child is now living and is said to have been named
Ethel Jane Foster

WITNESSES TO MARK:

(Must be Two Witnesses.)

Subscribed and sworn to before me this 26th day of April, 1901.

Seal.

G. F. Birley

Notary Public.

My comm. exp. April 15-1913.

"7" COPY.
Charles Friedman D 383

IN RE

Application for Enrollment of

INFANT CHILD

Josephine Foster

as a citizen of

Charles

Nation

Approved

MAY 22 1901 190

T. B. Needles.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED

MAY 22 1901

CHAIRMAN

COPY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Josephine Foster, born on the 25 day of Dec., 1900
(Here insert name of child.)
Name of Father: Robert Foster a citizen of the Cherokee Nation.
Name of Mother: Hester Foster a citizen of the Cherokee Nation.
Postoffice: Unitas Ind. Ter.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Western DISTRICT. }

I, Hester Foster, on oath state that I am 32
years of age and a citizen by adoption, of the Cherokee Nation;
that I am the lawful wife of Robert Foster, who is a citizen, by
adoption of the Cherokee Nation; that a Female child was
(Male or Female.)
born to me on 25th day of Dec., 1900; that said child has been named
Josephine Foster, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Seal.

Subscribed and sworn to before me this 26th day of April, 1901.
G. F. Bailey.
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Western DISTRICT. }

I, Nancy Parker, a midwife, on oath state that I
attended on Mrs. Hester Foster, wife of Robert Foster
on the 25th day of Dec., 1900; that there was born to her on said date, Female
(Male or Female.)
child; that said child is now living and is said to have been named Josephine Foster
Nancy Parker
mark

WITNESSES TO MARK:

(Must be Two Witnesses.)

Reiter Brown
Allen Parker.

Subscribed and sworn to before me this 26 day of April, 1901.
Seal. G. F. Bailey.
Notary Public.

My com. exp. - April 15, 1903.

Charlie ^{COPY.} *Hudman*
20 *D 383*

"D"

IN RE

Application for Enrollment of
INFANT CHILD

Charlie J. Foster

as a citizen of

Charlie

Nation

Approved

MAY 22 1901 1901

T.B. Needles.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED

MAY 22 1901

[Signature] CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Pearlie Jane Foster, born on the 11th day of March, 1898
(Here insert name of child.)
Name of Father: Robert Foster a citizen of the Cherokee Nation.
Name of Mother: Hester Foster a citizen of the Cherokee Nation.
Postoffice Vinita Ind. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Hester Foster, on oath state that I am 32
years of age and a citizen by adoption of the Cherokee Nation;
that I am the lawful wife of Robert Foster, who is a citizen, by
adoption of the Cherokee Nation; that a female child was
(Male or Female.)
born to me on 11th day of March, 1898; that said child has been named
Pearlie Jane Foster, and is now living.
Hester Foster.

WITNESSES TO MARK:

(Must be Two
Witnesses.)
Seal.

Subscribed and sworn to before me this 26th day of April, 1901.
G. F. Bailey.
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Millie Fry, a midwife, on oath state that I
attended on Mrs. Hester Foster, wife of Robert Foster
on the 11th day of March, 1898; that there was born to her on said date a female
(Male or Female.)
child; that said child is now living and is said to have been named Pearlie Jane Foster

WITNESSES TO MARK:

(Must be Two
Witnesses.)
Seal.

Robert Foster
Maney Fry.
Subscribed and sworn to before me this 26th day of April, 1901.
G. F. Bailey.
Notary Public.

My comm. exp. April 15-1903.

^{COPIA}
Charles Friedman
"C" 20-8383

IN RE

Application for Enrollment of
INFANT CHILD

James Foster
as a citizen of

Cherokee

Nation

Approved **MAY 22 1901** 190

I.B. Needles.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE INDIAN TERRITORIES
FILED

MAY 22 1901

CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of James Foster, born on the 9th day of Dec., 1893
(Here insert name of child.)
Name of Father: Robert Foster a citizen of the Cherokee Nation.
Name of Mother: Hester Foster a citizen of the Cherokee Nation.
Postoffice: Vinita I.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
North DISTRICT.

I, Hester Foster, on oath state that I am 32
years of age and a citizen by Adoption of the Cherokee Nation;
that I am the lawful wife of Robert Foster, who is a citizen, by
Adoption of the Cherokee Nation; that a male child was
(Male or Female.)
born to me on 9th day of Dec., 1893; that said child has been named
James Foster, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Seal.

Subscribed and sworn to before me this 26th day of April, 1901.G. F. Bailey

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
North DISTRICT.

I, Sophia Lynch, midwife, on oath state that I
attended on Mrs. Hester Foster, wife of Robert Foster
on the 9th day of Dec., 1893; that there was born to her on said date a Male
(Male or Female.)
child; that said child is now living and is said to have been named James Foster.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Robert FosterVina BentonSubscribed and sworn to before me this 26 day of April, 1901.

Seal.

G. F. Benton

Notary Public.

My comm. exp. April 10-1903.

FD 382

19

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Hester Foster,

Vinita, I. T.

Cherokee F-D-383.

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

73.

J. J. 383. =

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 22 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date *May 22, 1901*
 Post Office *Vinita, Ok.*
 District *Delaware*

1. Name _____ Age _____

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father *Robert* _____ Citizenship _____

Mother _____ Citizenship _____

11. Name of wife *Hester Foster* Age *32*

Owner's name _____ Citizenship _____

Year *Wallace* Page *123* No. *25-86* District *Del*

Parents:

Father *Joe Lynch - living* _____ Citizenship _____

Mother *Sophia " - living* _____ Citizenship _____

Names of Children:

2. *James Foster* Year _____ Page _____ No. _____ Dist. _____ *7*

3. *Prayer J. "* Year _____ Page _____ No. _____ Dist. _____ *4*

4. *Edith J. "* Year _____ Page _____ No. _____ Dist. _____ *2*

5. *Josephine "* Year _____ Page _____ No. _____ Dist. _____ *3-4*

8. _____ Year _____ Page _____ No. _____ Dist. _____

9. _____ Year _____ Page _____ No. _____ Dist. _____

10. _____ Year _____ Page _____ No. _____ Dist. _____

11. _____ Year _____ Page _____ No. _____ Dist. _____

12. _____ Year _____ Page _____ No. _____ Dist. _____

Application made by *Mr. "* Stenographer *Ed Rothenburger*

On Wallace roll as Hester Lynch
2, 3, 4 and 5 - Affidavits of birth to be supplied.

MAY 22 1901

X May 1907

At. Mc Rhea, atty for applicants

COPY

Cherokee Freedman
D 383

Muskogee, Indian Territory, May 17, 1904.

Hester Foster,

Vinita, Indian Territory.

Dear Madam:

There is inclosed herewith a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., rejecting, among others, your application for the enrollment of yourself, and your minor children, James, Pearlle J., Ethel J., Josephine and Arthur Foster, as Cherokee freedman. There has heretofore been furnished your attorney, A. S. McRae, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. V-36

Register

Tams Bixby.

Chairman.

COPY

Cherokee Freedmen
D 876, et al.

Muskegee, Indian Territory, May 17, 1904.

A. S. McKee,

Attorney for Joe Lynch, et al.,

Muskegee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 384, 386, 387, 429 and 430, together with a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., granting the application for the enrollment of Hubert Downing, and rejecting, among others, the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Arthur Lynch, John Lynch, Vina and Stella Denton, Nancy Gurlis, Lula Buffington and Rachel Downing, as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 376 and 383.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. V-44
Register

Chairman.

Cherokee Freedmen
D 376, et al

Muskogee, Indian Territory, May 17, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Joe Lynch, et al., including the Commission's decision dated April 20, 1904, granting the application for the enrollment of Hurbert Downing as a Cherokee freedman and rejecting the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth, Jackson, Arthur and John Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Vina and Stella Denton, Nancy Gurls, Lula Buffington, Rachel Downing, and Martha, Jessie M. and Leo B. Lynch as Cherokee freedmen.

Respectfully,

Tammie Dixby.

Encl. V-45

Chairman.

Through the
Commissioner of Indian Affairs.

Refer in reply
to the following:

(COPY)

CWL

30074-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

July 15, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized Tribes dated May 17, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Joe Lynch for himself, his wife, Sophia Lynch and his five minor children, Eliza, Cynthia J. Randolph, Ruth and Jackson Lynch; of Hester Foster for herself and her four minor children, James, Pearlina J. Ethel J. Josephine and Arthur Foster; of Arthur Lynch for himself; of David Benton for his wife, Vina Benton, and minor child, Stella Benton; of Nancy Curle for herself and her minor child, Lula Buffington; of Rachel Downing for herself and her minor child, Herbert Downing; and by Martha Lynch for herself and her minor children, Jessie M. and Lee B. Lynch.

March 5, 1904, the Commission decided that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that none of the applicants are identified on the 1880 authenticated Cherokee Roll, but all who were then living are found on the roll of citizens of the

Cherokee Nation; that the applicants, Joe Lynch and his wife Sophia Lynch were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and returned prior to February 11, 1867, established a home and have resided in the Cherokee Nation by the date of the record. The other applicants are descendants of Joe and Sophia Lynch and their sole title to enrollment is derived from them. The only question in the case appears to be when Joe and Sophia Lynch returned to the Nation, and the testimony of Joe Lynch is sustained by that of Allen Lynch and Anderson Lynch who swear that he returned prior to February 11, 1867.

On the part of the Cherokee Nation, O. L. Lynch testifies that he did not see the principal applicant, Joe Lynch, until 1901; Joseph L. Thompson that he did not see him until 1889; Walter A. Vest, did not see him until 1888.

The witness, Eben Craven, introduced by the Cherokee Nation, swears that he knew Joe and his wife, Sophia Lynch in Iola, Kansas, from 1846 to 1874 or 5, and that they had twenty-two children at that time. The testimony of this witness is not satisfactory and in pertinent particulars he appears uncertain.

It appears that the Cherokee Nation concludes from the testimony of their own witnesses that Joe Lynch was in the Nation in 1866 with his wife, Sophia and children, and as it is shown in evidence that Sophia was but seventeen years of

age at that date, the testimony of the witness, Craven, that
she had twenty-two children at any time when he swears that
he knew them, between 1866 and 1875, is a manifest falsehood.

In view of the record it is recommended that the Com-
mission's decision adverse to the applicants be reversed,
and the applicants enrolled as Cherokee freedmen.

Very respectfully,

A. C. Tenner
Acting Commissioner.

M.M.M.
W.

3 encl.

COPY.

1-3-

D.C. 25621-1904.
L.T.D. 5704-1904.
L H S

JHE

DEPARTMENT OF THE INTERIOR,

WASHINGTON. July 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

July 15, 1904, the Acting Commissioner of Indian Affairs submitted the Cherokee Freedman case consolidating the applications of Joe Lynch, et al; Hester Wester, et al; Arthur Lynch; John Lynch; Vina Benton, et al; Nancy Curtis, et al; Rachel Downing et al; and Martha Lynch, et al, and recommended that your decision adverse to the applicants be not concurred in and that you be directed to enroll such applicants.

Accompanying the papers is a motion for a rehearing, filed in the Indian Office by Joe Lynch for himself and the other applicants who claim through him, with letter from George P. Tagle, of Vinita, Indian Territory, of June 4, 1904, which is not mentioned by the Acting Commissioner.

The Department does not feel warranted in reversing your decision upon the testimony presented.

The motion for rehearing bears no evidence of service upon the attorney for the Cherokee Nation, but in view of the showing made thereby, and particularly of the recommendation of the Indian Office, the Department deems it advisable to order a rehearing in the case, and the same is hereby directed.

A copy of the Acting Commissioner's letter, and the testimony with papers attached, also the application for rehearing with affidavits attached, are inclosed.

Respectfully,

(Signed) Thos. Ryan,

Acting Secretary.

3 inclosures.

Cherokee Freedman

D-383.

Muskogee, Indian Territory, August 10, 1904.

Hester Foster,

Vinita, Indian Territory.

Dear Madam:

You are advised that the Commission is in receipt of departmental letter of July 21, 1904, remanding the Commission's decision of April 20, rejecting, among others, the application for the enrollment of yourself and children as Cherokee freedmen.

It is stated in said letter that the Commissioner of Indian Affairs recommends that the Commission's decision be reversed and the applicants be enrolled as Cherokee freedmen, and according to instructions contained therein you are hereby advised that you will be allowed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Monday, September 19, 1904, and introduce the testimony of such witnesses as you may be able to procure in support of your said application.

Respectfully,

Register.

Commissioner in Charge.

COPY.

Cherokee Freedman,
D-583.

Muskogee, Indian Territory, October 13, 1904.

Hester Foster,

Vinita, Indian Territory.

Dear Madam:

In the matter of the application for the enrollment of yourself and children as Cherokee freedmen, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Thursday, November 17, 1904, at which time you will be permitted to appear and introduce such testimony as you may desire in support of your said application.

Respectfully,

Register.

SIGNED: *T. B. Needles.*
Commissioner in Charge.

COPY

Casebook
M. D. 383

Muskogee, Indian Territory, October 11, 1904.

A. B. Nelson,

Attorney for Hester Foster, et al.,

Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Hester Foster and her children as Cherokee freedmen, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Thursday, November 17, 1904.

The said Hester Foster has this day been notified that she will be permitted to appear on said date and introduce such testimony as she may desire in support of said application.

Respectfully,

Register.

SIGNED: *T. B. Needles*
Commissioner in Charge.

COPY.

Cherokee Freedmen

D-383.

Muskogee, Indian Territory, June 16, 1905.

Hester Foster,

Vinita, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for the enrollment of yourself, et al., as Cherokee freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-23
Register

(SIGNED): *Lam. Dixie*
Chairman.

COPY.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

A. S. McRen,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Hurbart Downing, and rejecting, among others, the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-31.
Register

Wm. T. Davis
Chairman.

COPY.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Hubert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-33.

(SIGNED).

Tame Bixby
Chairman.

COPY.

Cherokee Freedmen
D-876, et al.

Muskogee, Indian Territory, June 16, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee freedmen, including the Commission's decision dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

On July 21, 1906, the Department remanded this case for rehearing and readjudication.

Respectfully,

Incl. 8-34g

Through the

Commissioner of Indian Affairs.

SIGNED:

Tamm Birby
Chairman

COPY J. S. Jr

DEPARTMENT OF THE INTERIOR, LEB

D.C.1778-1907
I.T.D.8180-1905.

WASHINGTON.

8906- "
8529- "
8737- "
LRS. 8739- "

January 4, 1917.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 11, 1905 (Land 47227), the Indian Office submitted the record in the matter of the application for enrollment as Cherokee freedmen by Joe Lynch for himself and wife, Sophie Lynch, and minor children, Eliza, Cynthia Jane, Randolph, Ruth, and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearl Jane, Ethel Jane, Josephine, and Arthur Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and illegitimate minor child, Lula Buffington; by Walter Downing for his wife, Rachel, Downing, and his minor child, Hurbert Downing, and by Martha Lynch for herself and her illegitimate minor children, Jessie May and Leo Bennett Lynch, including the decision of the Commission to the Five Civilized Tribes dated June 16, 1905, favorable to Hurbert Downing and adverse to all the other applicants.

There appears to be no proper reason for granting said motion, and it is hereby denied.

The Department concurs in the recommendation made, and the Commission's decision is hereby affirmed.

The papers in the case, including said motion for review, have been sent to the Indian Office for its files.

Respectfully,

Thos Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 Inc. and 3 to Ind. Of.

Cherokee F.
B-100

Muskogee, Indian Territory, January 18, 1907.

Hester Foster,

Ketchum, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the Cherokee freedmen enrollment case of yourself, et al., filed by your attorneys September 7, 1906, denied.

Respectfully,

JMH

Commissioner.

Charles F.
D-376 et al.

Muskogee, Indian Territory, January 18, 1907.

Blue & Bulger,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed by you September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. N-54
JMH

Commissioner.

Cherokee F.
B-376 et al.

Muskogee, Indian Territory, January 18, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. H-55
JMH

Commissioner.

Cher. Fr. R. 880

Trans. from Cher. Fr. D 384

Cher. Fr. R. 880

File with Cherokee Freedman D- *Arthur Lynch, D-384*

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Joe Lynch for the enrollment of himself and wife and five children as Cherokee Freedman, being sworn and examined by Commissioner Brockinridge, he testified as follows:

- Q Give me your name? A Joe Lynch.
Q How old are you? A I guess about 60 years old.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Delaware.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A Yes sir, wife.
Q Any children? A Yes sir.
Q How many? A I have got the names and ages. (Produces paper)
Q You have six children under 21 years of age have you? A Yes sir.
Q The oldest one of these six is Viney? A Yes sir.
Q Are any of this six that we are talking about married? A No sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Were you born here.
Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
Q Give me the name of your father? A I don't know him, I never did see him.
Q Give me the name of your mother? A I don't know her, but she was named Viney; but she is dead.
Q Been dead many years? A Yes sir.
Q To whom did you belong before the war? A Joe Lynch.
Q He was a Cherokee citizen? A Yes sir.
Q You were his slave at the beginning of the war? A Yes sir.
Q Give me the name of your wife? A Sophia.
Q How old is your wife? A I guess she is about 45 years old.
Q When were you and she married? A I couldn't say when we did marry, hardly.
Q Well, how long ago? A Yes sir.
Q Before any of these children were born? A Yes sir.
Q She must be more than 45? A She must be more than that.
Q Is she the mother of your oldest child? A Yes, sir.
Q That child is 32? A She must be older than that then I guess.
Q Maybe about 50 isn't she? A Yes.
Q You know the name of her father? A No sir.
Q Did you know the name of her mother? A Yes sir.
Q What is it? A Her mother was named Chaney Ross, she is dead.
Q Has she been dead very many years? A Yes sir.
Q More than 20 years? A She died time the war was going on, I think.
Q To whom did your wife belong? A Belonged to Susan Ross.
Q She was a Cherokee citizen? A Yes, sir.
Q And your wife was a slave in the Cherokee Nation when the war started? A Yes sir.
Q Now these six children for whom you apply, the oldest one is named Viney? A Yes sir.
Q That child is 19 years old, isn't she? A Yes sir.
Q Then Eliza is that the next one? A Yes sir.
Q She is 18 years old, isn't she? A Yes sir.
Q Cynthia Jane, that's the next one isn't it? A Yes sir.
Q She is 16 years old? A Yes sir.
Q Then comes Randolph, is that it? A Yes sir.
Q Randolph is 15, is that right? A Yes sir.
Q Then comes Ruth? A Yes sir.
Q She is 13 isn't she? A Yes sir.
Q Then comes Jackson, he is 11 isn't he? A Yes sir.

Q And that's your last one? A Yes sir.
 Q Are those children all living now? A Yes sir.
 Q Are you on the 1880 roll? A No sir.
 Q None of your family on the roll of 1880? A No sir.
 1880 authenticated roll of citizens of the Cherokee Nation
 examined and applicants not found.
 1880 census roll of citizens of the Cherokee Nation
 examined and applicants not found.
 Q None of your family are on the 1880 roll? A No sir.
 Q Did you draw Strip money for yourself and family at the big
 payment? A No sir, I drew at the first payment.
 Q Then none of you are on the Kerna-Clifton roll? A No sir.
 Kerna-Clifton pay-roll of citizens of the Cherokee Nation
 examined and applicants not found.
 Wallace roll of citizens of the Cherokee Nation examined
 and applicants identified as follows:
 page 123 #2584 Joseph Lynch, Delaware District;
 page 123 #2585 Sepha's Lynch, Delaware Dist;
 page 123 #2585 Vina Lynch, Delaware Dist.

Com'r to roll clerk: Vina is the last one you have got there?
 A Yes sir.

Q Why are you not on the roll of 1880? A Well sir, I couldn't
 tell you how come I wasn't on.
 Q Neither you or your wife, did you apply to have yourself put
 on that roll? A Yes sir.
 Q And they wouldn't put you on, either one of you? A No sir.
 Q Did they tell you why? A No sir.
 Q Well then none of you are on the roll of 1880? A No sir, I
 guess not.
 Q Do you know the reason of that? A No sir.
 Q Why did they refuse to put you on the Kerna-Clifton roll, all of
 you? A I couldn't tell you that, only when I asked them they said
 it was just through an oversight.
 Q Where did you go during the war? A I went to Kansas.
 Q Did your wife go with you? A No sir.
 Q Did she ever go to Kansas with you? A Yes sir, she went after I
 did I think, or a little before; she was a little bit of a girl.
 Q I just want to know whether she went to Kansas with you?
 A No sir.
 Q Where did you marry her? A In Kansas.
 Q You have got a child named Hester? A Yes sir.
 Q Where was that child born? A They were all born and raised here.
 Q I asked you about Hester, was Hester born in the Cherokee Nation?
 A Hester wasn't, Hester was my baby.
 Q Well, where was Hester born? A I believe she was - -
 Q Born in Kansas? A Yes sir.
 Q Hester is 32 years old now? Is she? A I guess so, I don't know
 the age myself.
 Q That is the age you have got on this memorandum? A Yes, I got
 a fellow to put the age down: just had to make a guess at it.
 Q Where was Nancy born? A Down here in the Cherokee Nation. Out
 here on the Delaware, right where I am living at.
 Q All these other children where were they born? A All of them
 was born right there.
 Q In the Cherokee Nation? A Yes, sir.
 Q Your wife didn't go to Kansas when you went there? A No sir.
 Q You were married to her when you went to Kansas? A No sir.
 Q When did she go to Kansas, when did you see her up there?
 A I saw her there along in '63.
 Q Where did you see her? A I saw her there about Allen County,
 Mo. there.

Q How long did you know her before you and she got married?
 A I guess I must have known her about 5 or 7 years I cannot say.
 Q Did you know her before she went to Kansas? A I know her
 people, they lived right down below where we are.
 Q I am asking you if you knew her? A Yes, I knew her; she was
 just a little bit of a girl then.
 Q You knew her before she went to Kansas? A Yes sir.
 Q How long had she been in Kansas before you married her, how long
 was it after she got there before you married her? A I guess she
 had been there, I expect about four years.
 Q She had been there about four years and then you and she married
 there? A Yes sir.
 Q How old was your child, Hester, when you and your wife came back
 to the Cherokee Nation? A Oh she was just a young thing, just a
 little bit of a baby.
 Q Only a few months old? A Yes sir.
 Q How long after you married your wife before Hester was born?
 A It wasn't long.
 Q More than a year? A No sir, I guess it must have been about
 nine months before she was born I guess.
 Q So you and your wife came back to the Cherokee Nation then about
 a year after you were married? A Yes sir.
 Q Because Hester was born and was a baby some months old? A Yes
 sir.

It now being the noon hour the Commission adjourns until
 1 o'clock PM.

M. D. Green, being first duly sworn, states that as stenographer
 to the Commission to the Five Civilized Tribes he correctly reported
 the testimony and proceedings in this case and that the foregoing is a
 true and complete transcript of his stenographic notes thereof.

Signed, M. D. Green,

Subscribed and sworn to before me this May 22, 1901.

Signed, C. R. Breckinridge,

Commissioner.

It now being the hour of one o'clock P.M. May 21st 1901, and
 the Commission having been called to order, the application for the
 enrollment of Joe Lynch et al. is continued as follows:

W. W. Hastings for the Cherokee Nation.
 A. S. McRea, attorney for the applicants.
 C. R. Breckinridge, Commissioner presiding.
 Chas. von Weise, Stenographer.

JOE LYNCH, the applicant herein, re-called and examined as
 follows by Commissioner C. R. Breckinridge:

Q I understand that you desire to make a correction in your testi-
 mony given in this morning? A Yes sir.

Q Then you testified that your child Hester was born in Kansas?

A Yes, sir, I made a mistake there.

Q You testified, as I recollect it, that the child Hester was born
 in Kansas and was a few months old when you came from Kansas after
 the war and came into the Cherokee Nation? A Yes sir, but she was
 born in the Cherokee Nation, all of them was born here, I just made
 a mistake this morning.

Q Did you bring your wife back from Kansas? A Yes sir.

Q When you first came back from Kansas, did you bring your wife
 with you? A Yes sir.

Q Do you mean to say that you don't remember if she brought a suck-
 ling babe with her? A Well when I first come I first come by myself

horseback and didn't bring her with me.

By Com'r Breckinridge: I want to warn you that you have made some very positive statements in regard to your coming here after the war and that when you testified this morning you said that you were positive that when you first came back to the Cherokee Nation from Kansas after the war that you brought your wife with you and that she had a baby in her arms at the time that was born in Kansas just a few months before you started, and now you come and desire to change all that and I simply desire to warn you that you are under oath and that you are to consider well what you intend to swear to for if you do not swear the truth you are liable to get yourself into trouble, very serious trouble in fact.

Q You say now that when you came here the first time from Kansas directly after the war, that you came by yourself on horseback and that your wife was not with you then? A No sir she was not.

Q And you also desire to correct your statement of this morning wherein you stated that when you and your wife came down here from Kansas, she had a baby in her arms? A No sir she did not, I made a mistake in that, the baby was born since then, she was born in the Cherokee Nation.

Q You say how you first came by yourself? A Yes sir on horseback to look out a location.

Q When did you come here by yourself, and where did you come to?

A On Grand river pretty close to where I am living now, and located me a place.

Q When was that? A November of '66.

Q Did you come down there then to prepare a place for yourself and family? A Yes sir, for me and my wife.

Q What work did you do there that time? A Located me a claim and laid the foundation for me a house.

Q What else did you do? A Never did nothing else then.

Q How long did you stay there before you went back to Kansas?

A Not very long.

Q Did you stay there until Spring? A No sir, maybe a week or two.

Q And then what did you do? A Then I goes back and gets my woman and comes down and builds my house.

Q What time was it you say you first come there? A It was in November.

Q How did you bring your wife when you come with her? A In a wagon.

Q Just you and your wife? A Yes sir.

Q Nobody else? A No sir.

Q Did you go right back to Kansas and get your wife and bring her right straight back here? A Yes sir.

Q Your daughter Vina is married is she? A Yes sir.

Q So you made a mistake there also when you said it is morning that the children you applied for were all under age and living with you at this time? A Yes sir I made a mistake there, Vina is married, she has not been married very long and I had forgotten that she was.

By Com'r Breckinridge: So the application for her will not be continued, as she will have to apply for herself or be applied for by her husband.

By A. S. McRae, attorney for the applicant:

Q Mr. Lynch, you say that you were born in the Cherokee Nation?

A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where to? A Kansas.

Q When did you return to the Cherokee Nation? A In '66 in November

Q Where did you first come to the Cherokee Nation when you returned the first time from Kansas? A I located right where I am living now, on the river in Delaware district in the Territory.

Q In the Cherokee Nation? A Yes sir.

Q Who were your owners before the war? A Joe Lynch.

Q You say that you laid the foundation of your house preparatory to

the moving of your family, your wife, from Kansas, when you came here that first time by yourself on horse-back and then went back and got your family? A Yes sir went back for my wife.

Q How long had it been before you returned to the Cherokee Nation after you got back to Kansas that time? A I cant tell just exactly - I dont know just how long - it has been so long that I had done forget just the exact time.

Q Was it in December of the same year or in the January of the next year, in 1867 - was in in December of '66 or in January of '67, in other words, how long did you stay in Kansas before you came back to the Cherokee Nation after you had been here and located your claim and laid the foundation of your house preparatory to moving your family here, and then went back up there? A I dont think I was in there more than two months before I returned here with my wife.

Q Have you lived in the Cherokee Nation continuously ever since that time that you came back here with your wife? A Yes sir.

Q Did you and your wife belong to the same owners before the war?

A No sir, my wife belonged to Susan Ross.

Q Were you and she married before the war? A No sir.

Q When were you and she married? A After the war.

Q After the war closed? A Yes sir after the war closed.

Q Is your name on any of the authenticated rolls of the Cherokee Nation? A No, sir, not been able to find it on that, but it is on the Wallace roll.

Q Can you tell why it is not on the roll of 1880? A No sir I dont know.

Q Did you make application for enrollment then? A Yes sir I applied as a Cherokee Freedman when the census takers come round to the houses then.

Q Did you get on the roll then? A I cant tell if they put me on then or not, if they did they scratched me off again.

Q Was you rejected that you know of? A No sir.

Q You say you have lived continuously in the Cherokee Nation ever since November of December of 1866 up until now? A Yes sir I has lived here ever since then till now.

By W. W. Hastings, Cherokee Representative:

Q You were in here before dinner were you not? A Yes sir.

Q And you testified then that you brought your family with you when you came back from Kansas - your wife and one child? A No sir I did not bring any child, I made a mistake then; I dont know what I did say then.

Q You have found out since going to dinner and talking with your lawyer, that the age of your oldest child would bet enough to have her born here, in other words, that she could not be the age you give in for her, and be a month or two old at the time you say you come back from Kansas - in '66? A No sir I haint talked it none, I just made a mistake in giving in the ages, I remembers now that that child was not borned here, she was borned after we got here.

Q Wasn't that oldest child born in Kansas before you come back to the Cherokee Nation? A No sir, it wasn't.

Q You testified that it was didn't you before the Kerns-Clifton Commission some five years ago? A No sir not of it being born in Kansas.

Q Didn't you swear then that you brought that child back with you when you and your wife come to the Cherokee Nation from Kansas right after the war? A No sir I dont know what I testified there.

Q Didn't you testify before the Kerns-Clifton Commission that you had this one child when you left Kansas after the war to come to the Cherokee Nation and that you brought it with you? A No sir I never told them tellers that.

Q You never swore that? A No sir.

Q Where did you live before the war? A Well sir, I lived in

Saline district with Len Lynch's father.

Q You have seen Len Lynch's father, the one that lives on Grand river, haven't you? A Yes, sir, that is his father.

Q He was living there when you came back, wasn't he? A No sir, I was in Flint.

Q Didn't he live in Flint? A I don't know where he lived then.

Q Was he living in Saline? A I was not in Saline.

Q Hadn't you come back to the old Joe Lynch place? A No sir, I come back and located on this side of the river from the old place.

Q Didn't you swear before the Kerns-Clifton Commission that you come back to the old Lynch place? A No sir I never.

Q You deny going back to the old place then? A I told you that I never went there.

Q Who were your neighbors there? A Daniel Bandrum.

Q Who else? A Davis.

Q What Davis? A I don't know nothing but Davis, he was a full blood Indian.

Q Where did George Clark live? A Well George Clark lived away up there on Grand river.

Q How far from you? A Well I don't know exactly, I can't tell how many miles it was.

Q He wasn't your near neighbor then? A No sir.

Q Didn't you testify before that he was? A No sir.

Q Do you know Watt West? A Yes sir.

Q How far did he live from you then? A I never seed him then.

Q How long after that before you saw him? A I don't know exactly.

Q How far does he live from you now? A 15 or 16 miles as near as I can tell.

Q Where did you make your first crop after you got back from Kansas?

A The first crop I made was on a little bit of land I had rented from a full blood Indian.

Q What was his name? A Joe Dirtester.

Q Was that in Saline or Delaware? A That was in Saline.

Q How far from where you now live? A 4 or 5 miles, I don't know exactly.

Q Do you live in Delaware district now? A Yes sir.

Q How long did you stay in Saline, before you moved to Delaware district? A I never lived there at all, I just rented a piece of ground there and went over on horse back and worked it.

Q So you have lived practically on the same place that you now live ever since your return from Kansas? A Yes sir.

ALLEN LYNCH, called and sworn by Commissioner Breckinridge, testified as a witness on the part of the applicant:

Examined by Commissioner Breckinridge:

Q What is your name? A Allen Lynch.

Q How old are you? A 62 about.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A Might say all my life.

Q Do you know the applicant there, Joe Lynch? A Yes sir.

Q How long have you known him? A We were born and raised on the same place.

Q You have known him practically all your life then? A Yes sir.

Q Did you know him during the war? A Yes sir.

Q Where did you see him during the war? A We were soldiers together and were both in the same regiment.

Q When were you discharged after the war? A In '65.

Q Where were you discharged? A At Leavenworth.

Q What did you see him after that? A We came to Neosho Falls together in '66 and I left him there in that winter, yecken about Christmas and came back here to the Nation.

Q Are Neosho Falls in Missouri? A No sir in Kansas.

Q Where did you locate here in the Nation on coming from Neosho Falls? A On the east side of Grandriver.

Q How long did you stay at that place? A Until some time in March.

Q Of what year? A '66.

Q On the east side of Grand river? A Yes sir.

Q Then where did you go? A Moved right down here to the mouth of this creek here.

Q Cabin creek? A No sir, where Bull Creek runs into cabin.

Q How long did you stay there? A Raised a crop there, a crop of corn, and staid there until June or July.

Q You say you staid on the east side of Grand river until March of 1866? A That was when I first moved over here.

Q You spoke of going first, when you got back, to a place on the east side of Grand river, when did you get there? A The first day of February '66.

Q How long did you stay there? A 7 or 8 days.

Q And then you come over here to Bull Creek, is that right? A Yes sir.

Q How long did you stay at this place at the mouth of the Creek?

A We staid there until along in June or July.

Q Of what year? A '66.

Q Then what did you do? A We moved down to what was called the old Ark Simmons place.

Q Where is that? A About a mile from the old Lewis Hall place.

Q How long did you stay there? A We staid there until some time maybe in October, can't tell exactly.

Q Was it of the same year? A Yes sir.

Q Then where did you go? A Went to the Six Mile Bottom on McGarrie's place.

Q How long did you stay there? A ~~XXXXXXXXXXXXXXXXXXXX~~ I don't know exactly - George Clark bought the place and we moved off.

Q Was that the same year? A Yes sir.

Q Where did you go to then after you left the place George Clark bought? A Went to the Dr. Thompson place.

Q Still in '66? A Yes sir.

Q How long did you stay there? A Until some time along in '67, cant tell exactly.

Q Was it in the summer or fall? A I left there in the summer of '67.

Q You say that you left Joe Lynch up on Neosho Falls? A Yes sir.

Q When did you see him again after leaving him up there? A I saw him while I was living on this Six Mile Bottom, he came down there to see his brother in law Simon, and to locate him a place.

Q Six Mile Bottom of what creek or river? A Grand river.

Q On which side of the river? A The west side.

Q Did he pick himself out a place there? A Yes sir.

Q Is that the place he is living on now? A Yes sir.

By A. S. McRea:

Q Do you know Mr. Lynch, when Joe Lynch came to this place that you speak of to seek him out a location, do you know when it was?

A It was in the fall of '66.

Q Well you have known him to have lived in the Cherokee Nation continuously ever since he first moved to that place have you not?

A He has never moved off of it since he came there.

By W. W. Hastings:

Q When did he move here with his family? A He got here with his family in '67.

Q Was it in the fall? A In the Spring or summer.
 Q How long did he stay when he first came? A Week or ten days.
 Q Then did he go back? A Yes sir.
 Q He had no means then did he - nobody had any at that time did they? A No sir, not much.
 Q Was he a horse-back or foot the first time you saw him? A He was horse back when he came there to look up a claim.
 Q How many children did he have when he came in the following spring or summer with his family? A I can't remember just exactly, must have had three, four, five or six, I don't know just how many.
 Q Did they come in wagons that time? A Yes sir.
 Q When he did come back with his family, where did he move to?
 A Right on the place where he lives now.
 Q He never went back to the Joe Lynch place? A No sir, right where he lives now.
 Q Is that in Delaware district? A Yes sir, right close to Cass's.
 Q How far is that from the old Joe Lynch place where he used to live before the war? A 4 or 5 miles.
 Q In the same neighborhood though? A Yes sir.

By A. S. McKee:

Q Are you acquainted with the children of Joe Lynch? A Well, yes sir, I can't give the names of them all, I can't count them all, he can't ever count them; I know them but I don't know their ages and can't give all their names. He can't even do that himself.
 Q Have you any knowledge of your own how old the oldest one of his children is? A No sir, I can't tell.
 Q Are you acquainted with the oldest one? A I know them all but I can't tell nothing about their ages, I lives there in two miles of them but I can't tell nothing about their ages.
 Q Were they all born here in the Territory? A I think he brought two of them with him from Kansas when he came here first.
 Q When he moved here with his family you mean? A Yes sir.
 Q Were the others all born here? A I think they was.
 Q You don't know which ones were born in Kansas? A No sir, I think though that Hester - a girl - and the other one - I don't know - I don't know of any others was born there or not; The others though was all born right there where he lives. I don't know how many he brought with him from Kansas.
 Q Is the one that you referred to by name the oldest one? A Yes, sir, that I know of.
 Q You don't know of they have any older ones or not? A No sir I don't know.

By the Commission:

Q This place that you say that you saw Joe Lynch the first time when he came here to locate him a place, when he came here first on horse-back, was that in what you call Six Mile Bottom? A No sir, it was on the prairie, right on top of the prairie.
 Q You were living then yourself on the Six Mile Bottom? A Yes sir I was about four miles below there.
 Q And when you next saw him it was in the following summer? A Yes sir.
 Q When he was moving his family? A Yes sir.
 Q Did he move them all to this place near Six Mile Bottom? A Yes sir.
 Q How far from where you lived was this place? A Must have been 4 or 5 miles or maybe six miles.
 Q Were you at his place when he got there? A No sir, he was there when I saw him, he was right there.
 Q How long had he been there when you first saw him and his family?
 A I can't tell you that.
 Q But that is the first time you saw him after you saw him on horse back by himself the year before? A Yes sir.
 Q You don't know if he had just come or not? A No sir I never asked him.
 Q Do you remember when he married in Kansas, or were you present

at the time? A No sir I wasn't there; he married in '66 or '68, because we both belonged to the same regiment and were mustered out together and I left him there and during the time I left him there he married.

ANDERSON LYNCH, called and sworn by Commissioner C. E. Breckinridge, as a witness, testified as follows on the part of the applicant: (Examined by Com'r Breckinridge.)

Q What is your name? A Anderson Lynch.

Q How old are you? A I am about 34.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A I was born and raised here.

By A. S. McRea.

Q Are you acquainted with the applicant, Joe Lynch? A Yes sir.

Q How long have you known him? A All my life.

Q Did you see him here in '89? A Yes sir.

Q What time of the year was it that you saw him? A It was in the fall of '86.

Q Where was it that you saw him? A It was right there on the river, he was making a claim where he is now living.

Q Did you know him before the war? A Yes sir.

Q Who did he belong to? A To Joe Lynch, the same man I did.

Q Are you acquainted with his wife? A Yes sir, a little, I have seen her in Kansas.

Q When did you see her in Kansas? A In '85, when I first got acquainted with her.

Q Were they married then? A Yes sir.

Q Do you know when Joe Lynch went back to Kansas for his family after he had first been here to locate him a claim? A Yes sir it was in the winter, and I think that he went up here to Osage Mission and had to stay a while and never got back here until in the winter of '87.

Q And did he then bring his family and locate where he is living now? A Yes sir.

Q Did they have any children born in Kansas? A I say had one that I remember of, a girl.

Q What is its name? A Hester.

Q Was she born in Kansas? A Yes sir, I know she was.

Q How old was she when she came here from Kansas? A I don't know exactly.

Q Of your own knowledge, has Joe Lynch lived in the Cherokee Nation continuously ever since he came here in '86? A Yes sir.

By W. W. Hastings:

Q Have you ever been tried for anything? A Oh yes I have been tried.

Q What for? A I have been tried for murder.

Q What was done with you? A I was acquitted.

Q Ever been tried for anything else? A No sir.

Q You knew Joe Lynch before the war did you? A Yes sir, we was raised together.

Q Where did you live at the time that you say Joe came back here in the fall of '86? A On Lynch's Prairie, and heard of him being over there and came over to see him.

Q Is Lon Lynch your young master? A Yes sir.

Q And you say that Joe brought back his family from Kansas to the Cherokee Nation in the fall or winter of '87? A Yes sir, it was an cold weather.

Q He had one child then that you remember? A Yes sir, he didn't have any children with him the first time he came, he came the first time on horse-back by himself.

Q I mean when he brought his family -- his wife? A Yes sir.

By A. S. McRea:

Q You are a Cherokee citizen are you? A Yes sir.

APPLICANT, re-called and examined by the commission:

Q How did you get at the ages of these children that you handed in on this slip of paper? A I got a man to put them down.

Q Who told him the ages to put down? A I did, I just had to guess at it; I didn't know their ages exactly and had to guess at it, and he put them down as I said I thought they was.

By W. W. Hastings:

Q Is your wife living? A Yes sir.

Q Where was this list made out? A It was made out over at home.

Q Was your wife present when it was made out? A Yes sir she was.

Q You talked with her about their ages didn't you? A No she can't count none; I talked with the man that put it down; of course she was standing there listening to me.

Q You are sometimes known by a nick-name are you not; as Joe Buzzard or Joe Lynch? A Yes sir.

G. B. LYNCH, called and sworn by Commissioner C. R. Breckinridge, testified as follows on behalf of the Cherokee Nation:

(Examined by Com'r Breckinridge)

Q What is your name? A G. B. Lynch.

Q What is your age? A 60.

Q What is your postoffice? A Stillwell, I. T.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life.

Q Do you know the applicant here, Joe Lynch? A Yes sir.

Q Did he belong to your father before the war? A Yes sir.

Q And at the time of the war? A Yes sir to the war to my father's estate.

Q Do you know what became of this man during the war? A He went to Kansas.

Q Did his wife Sophia belong to your father? A No sir, I am not acquainted with his family.

Q Do you know when this man came back to the Cherokee Nation after the war? A Not exactly.

Q What do you know of his coming back? A Well I came back myself in the winter of '67 and '67, in January or February.

Q And when did you first see this man after the war? A The first time that I saw him since the war was to-day a week ago.

Q Just a week ago? A I never saw him from then until last Tuesday a week ago.

Q Do you know where he lives near Six Mile Bottom? A Yes sir I have been to his house three or four years back, but he was not at home, I have not seen him since '62 until last week.

Q Then you have no knowledge of your own as to when he came back from Kansas to the Cherokee Nation? A No sir, I came back myself in '67 and stopped in Flint district and was going backwards and forwards from Flint to my old place in that year of '67, and I found some of the negroes there, but Joe Lynch had not come in yet in '67.

Q Did you pass by where he is living now in your wanderings back and forth? A No sir he was not here then.

Q I mean did you pass by that locality where he now lives? A Yes sir I was well acquainted with the country round there.

Q Was you by there in your rounds in 1867? A Yes sir I was all around there and there was no house there then.

Q In 1867 did you go by the exact spot where this man now lives? A I don't know that I did go by the exact spot, but I was round through the country there, backwards and forward.

Q What time in 1867 were you there? A I got back in February of '67.

Q Was you right there where this man now lives in February of '67? A I don't know that I was right where he lives.

Q What time in '67 were you in that neighborhood? A I went around through there frequently.

Q Were you there in the fall or summer of '67? A I was right there

the river then, from the place where this man says he lives.

Q Did you go through that neighborhood in the summer or fall of '67? A I don't remember if I did go through the exact place that this man lives at but I was on the south side of the river, just opposite two or three miles from there.

By W. V. Hamilton:

Q You passed by his place about three years ago you say? A Yes sir about 3 or 4 years ago, I went to his house but I did not see him as he was not at home.

Q About how far is that place from your old place? A Well I guess it is about 3 or 4 miles.

Q On which side of the river was your old place? A On the south side.

Q Of Grand river? A Yes sir.

Q When did your father die? A In 1861.

Q About the time the war came up? A Yes sir.

Q Did your father leave any property in that neighborhood in the way of farms and improvements? A Yes sir, left all his property there.

Q What were you doing up there in '67 after you returned to the Cherokee Nation? A I came back and found our old place sold under the Confiscation act and another man living on it, and I was up around there to look after it and the property my father had left.

Q How much of your time did you spend in that neighborhood in '67?

A Well I lived some of the time in Cooweescoowee district on Grand river, I had some folks living there, and then I lived in Flint off and on during '67.

Q You say you never saw this man Joe Lynch in that neighborhood any time during that year? A No sir.

By the Commission:

Q How far is Joe Lynch's home from your father's old home? A 3 or 6 miles.

Q Have you lived at your father's old home ever since the war?

A No sir.

By A. S. Moore:

Q When you came back for your interests in '67, you were only looking after your own interests and nothing else were you not? A Yes sir I was just looking after my property there.

Q You don't know whether or not Joe Lynch was at the place that he states he was or not at that time? A He was not there.

Q You are positive that he was not there? A Yes sir.

Q I understood you to say that you never went to the exact spot where he now lives until about three years ago? A There was no place there at all at that time.

Q That was a very isolated country up around there then was it not?

A Yes sir it was not settled up much then, not as many there as there are now by any means.

Q It is possible that he could have been around there when you first came there and you not have seen him, is it not? A Oh yes it is possible.

Q Then he might have been there and you not have run across him?

A He might.

By the Commission:

Q Did you see any of the rest of your father's slaves around there at that time? A Yes sir.

Q Did you visit them? A Yes sir, I saw them all that was there, at the old place.

Q Did you make any inquiry as to where the rest of them were?

A I inquired for Joe and the balance of them.

Q Did you dispose of that property that year or the next? A No sir I was the only one here at the time.

Q When did you get rid of it? A I cannot say positively, my brother and Col. Bell were administrators and they sold it when they got back.

JOSEPH L. THOMPSON, called and sworn by Commissioner W. R. Breckinridge, testified as follows on the part of the Cherokee Nation.
(Examined by Commissioner Breckinridge)

Q What is your name? A Joseph L. Thompson.

Q How old are you? A 62.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A All my life, except one year.

By W. W. Hastings:

Q When did you come back to the Cherokee Nation after the war?

A I got back to Cabin creek in January, 1863.

Q Do you know the applicant, Joe Lynch? A Yes sir.

Q Do you know where he lives now? A Yes sir.

Q How far did you live from him then? A When I first settled there it was a mile and a half and now it is two miles.

Q Was he living there when you came back to the Cherokee Nation in '63? A No sir.

Q When did you say you returned? A January '68.

Q And he was not living there at that time? A No sir.

Q Did he move there since then? A Yes sir.

Q You were living then about a mile and a half from where he lives now? A Yes sir on what was then known as the Ahshahone place.

By A. S. McRea:

Q How long have you known Joe Lynch? A I have known him nearly all my life, he belonged to my uncle.

Q Do you know where he went to during the war? A No sir, he came from Kansas after the war, but I don't know where he was all during the war, Kansas though I suppose.

Q Did he leave here during the war? A Yes sir.

Q When did he leave? A I don't know.

Q When did he return to the Cherokee Nation after the war? A To the best of my knowledge he returned in '61.

Q Where was the first place that you saw him in '68? A Where he now lives.

Q How long had he been there when you first saw him? A Only a few days.

Q Has he been living there continuously since '68? A Yes sir, I have been living there myself ever since and I have never known of him moving away.

Q Can you state positively of your own knowledge whether or not he was here in the Cherokee Nation before '68? A He was not living where he now does before that.

Q How do you know that he was not living where he is now before that time? A Well I was over the prairie frequently and did not see him until about that time.

Q What kind of a country was it around there? A How do you mean?

Q Was it isolated and grown up with brush and timber or were there lots of settlements around there? A Well there were only a few people living around in that part of the country then.

Q Was it wooded? A No sir he lived out on the edge of the prairie like

Q How far did you say you were living from where he does at the time you first saw him? A About a mile and a half.

Q Then you say you moved to another place? A Yes sir it was about two miles from his place.

Q Do you still live there at that place? A Yes sir.

Q Does he still live at the same place that you first saw him at?

A Yes sir.

Q How long have you been living at the place you now live?

A 20 years or more, yes it has been longer than that.

WALTER A. WEST, called and sworn by Commissioner C. R. Breckinridge, testified as follows: on the part of the Cherokee Nation:
(Examined by Commissioner Breckinridge)

Q What is your name? A Walter L. West.

Q How old are you? A 60.

Q What is your postoffice? A Spavinaw.

Q How long have you lived in the Cherokee Nation? A All my life.

By W. W. Hastings:

Q Mr. West, where did you live the first few years after the war?

A On here on the Military Road in Delaware district.

Q Do you know Joe Lynche, the applicant here? A Yes sir.

Q Do you know where he lives? A Yes sir.

Q How far did you live from him at any time? A Well when he first came here after the war he lived two miles from me.

Q When did he settle there? A He came there in the spring of '68 to the best of my recollection.

Q Are you positive that he was not there before the year '68?

A No he was not there.

Q How far did you live from him? A Two miles.

Q How long had you lived there? A I moved there in the latter part of '66; during the first part of '68 I lived in close to Neosho and then I lived near Fort Scott Kansas and then I came down here and made a place and lived on it until in '69 and sold it to Mip and then moved to where I am now living.

Q Then in '67 and '68 you were living near the old Military road and near where this man lives? A Yes sir up to November '69.

Q Where did this man first come to after the war, to the place where he now lives? A I saw him on the old military road and he said that he had come from Kansas, and he settled near there and made a place; I could see it from my house, it was just in sight. It was close to what is now Mips place.

Q And you say that was in the spring of '68? A Yes sir that was in the spring of '68.

Q How long was it from the time you saw him on the old military road until he settled on this place? A That same spring that I saw him on the military road coming from Kansas.

By A. S. McRae:

Q Mr. West, how long have you known Joe Lynch? A I knew him before the war when he was a little boy called Buzzard.

Q Where did he go to during the war? A I don't know.

Q Did he leave the Nation during the war? A I don't know except that he told me that he went to Kansas.

Q When did he leave the Cherokee Nation to go to Kansas if you know? A I don't know.

Q When did he return? A In '68.

Q How do you know that he returned in '68? A He came by my place and said he had come from Kansas.

Q How was he traveling? A In wagons of course, there was no railroads through here then.

Q Who was with him when you first saw him? A He was supposed to have his family with him.

Q What family? A Wife and child is all that I saw.

Q Where did he go to then? A Cross the river where he said he was going over among his acquaintances and relations and then he come back on this side and made him a place.

Q When did he locate his present place, where he now lives? A In the same year, '68.

Q Can't you possibly be mistaken? A I can possibly be mistaken, but that is my judgment.

Q How long have you lived in the neighborhood where you are now living? A Ever since November 1869.

Q Do you know anything about the character and nature of that country before '69? A Yes sir.

Q What was the condition of it, open land or wood? Was it well filled up with settlements? A It was not as thickly settled as it is now, there was some thick woods down in the bottom.

Q Was it a wild sort of country? A Well I guess you might call it sort of wild, there was lots of game in around there.

Q Are you positive that he was not located in around there before '68? A I did not see him until that time in '68.

Q Is it not possible that you might not have seen him around there and him yet be living there? A Well I don't hardly think it is for I was around through there pretty much hunting deer and would have run across him.

Q Is it possible that if Joe Lynch had been a deer that you would not have seen him there at that time on account of the isolated sort of country it was? A No sir not if I had had a Winchester with me it is not likely that he could have got away for I was pretty good at killing deer then days.

Q Is it not possible that he could have come back to the Cherokee Nation from Kansas before '68 and you not have seen him? A Yes it is, but the first time that I saw him was there on the old Military road coming by my place from Kansas, as he said, and that was in the spring of '68. He could not have come by there and settled where he now lives without my having seen him.

Q You don't know of your own knowledge when he did come back to the Nation? A I know that he did not come to where he now lives until in '68.

By the Commission:

Q You are not living in the same neighborhood now that you were when Joe Lynch came back? A No sir, I live six miles from him now and when he come back I lived two miles from him.

Q I understood you to say that when he come back the first time and settled that you were living two miles from where he settled?

A Yes sir.

Q That was within two miles of there he settled then and also where he now lives? A Yes sir.

Q When did you begin living on that place yourself - the one you were living on when you first saw the applicant here? A In the latter part of '66.

Q And you lived there I believe you stated, until the latter part of '68? A Yes sir until in November '68.

By A. S. McKee:

Q Is it not true that you never came to this particular place where you are living now until in '68? A I went there in November 1868.

Q I was speaking of the place where you lived before coming to the place you now live at? A I went there in '66 and made it my home and raised crops there until I sold it to Hip and moved away in '69.

JOE LYNCH, the applicant, recalled and examined by A. S. McKee:

Q Are you acquainted with Mr. Thompson who has just testified for the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life, ever since I was big enough.

Q Did you see him in '66 when you came to the Territory where you are now living? A No sir, I came by my self on horseback that time and never seed him.

Q When did you first see these witnesses? A Must have been in '67 that I seed him.

Q Where was it that you saw Mr. Thompson and Mr. West in '67?

A I saw Mr. West across the river.

Q And not at the present place where you are now living? A No sir when I come down there I never seed nobody.

Q When you brought your wife and family in a wagon did you see Mr. West as he speaks you did? A No sir I never.

Q Then he did not see your family and you? A No sir.

Q If you had seed him you would have had some recollection of it would you not? A Yes sir.

Q. How long has Mr. West lived in the neighborhood where he now lives - did he live two miles from you when you first settled there?

A. No sir he never lived there when I came there, he come and got a place close by there and lived there after that.

Q. When was that? A. In '67, when I was living there.

Q. What time of the year, in January or in December or in the summer or when? A. Long in March of '67.

Q. Did you know Mr. West before the war? A. Yes sir.

Q. If you had met him in '68 you would have some recollection of it would you not? A. Yes sir course I would.

Q. Is the statement of Mr. West that he saw you passing his house on the old Military road with your family in a wagon in the spring of '68 true? A. No sir that is not true.

By the Cherokee Nation, W. W. Hastings:

Q. Mr. West was living within a short distance of you when you located there? A. He was on a place there three or so miles from me, he was on the old Military road and I was near Grand river.

By A. S. McLean:

Q. When did your permanent residence begin down there? A. It commenced long in the winter when I commenced making my field.

Q. In the winter of '66? A. Yes sir.

By Gen'r Breckinridge: The applicant applies for the enrollment of himself, his wife and six children; it is developed in the course of the inquiry that one of the children for whom he applies is married and his application is reduced to five children. It seems that the applicant was a slave in the Cherokee Nation and of a Cherokee citizen prior to, and at the breaking out of the war between the United States and the Confederacy. He appears to have enlisted in the United States army and to have gone to the state of Kansas, from which state he returned after the war. The applicant is not identified on the roll of 1880 or upon that of 1886, or upon the Burns-Clifton roll, he is identified on the Wallace roll. He married in the state of Kansas, and in his first testimony states that he there lived until after the birth of his first child; that his wife had gone to the State of Kansas from the Cherokee Nation during the war, that she remained there four years prior to their marriage and that they returned to the Cherokee Nation one year after their marriage. The testimony relating to the time when his wife went to the State of Kansas is not present at this moment, it having been taken by another stenographer, but that can be inquired into later. The applicant subsequently denied that any of his children were born in the state of Kansas, but it is averred by other witnesses, including one of his own, that when he returned to the Cherokee Nation he was accompanied by one child, and one of the witnesses affirms that he was accompanied by more than one child. Witnesses who lived in the neighborhood in which the applicant located, according to his own testimony, immediately after his return, and at which spot he has continued to live ever since, affirm that he came there in the year 1868 with his family. The applicant affirms that he came there first on horseback in the fall of '66 and moved his family to this locality prior to the spring of '67. The testimony is very voluminous, but is referred to for fuller information in regard to its character. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card and the final decision of the Commission will be made known to him at his postoffice address. The applicant guesses his age at

50 years and that of his wife at 50 years! She appears to partake of all the rights and status enjoyed by himself and she will now be listed for enrollment as a Cherokee Freedman on a doubtful card; she being identified like the applicant on the Wallace roll, but not upon any other roll. The five children applied for, and who are said to be minors, and ~~whose~~ whose applications are received at this time, are respectively Eliza, Cynthia Jane, Randolph, Ruth and Jac R-son; these children range in age from 11 to 18 years, they are all said to be living now, there is no dispute as to their identity or of their being living at this time; they are not identified on any roll, but they will be listed for enrollment with their father and mother as Cherokee Freedmen upon a doubtful card. The final decision of the Commission in regard to all of these applicants will be made known to them through their father at his postoffice address.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the continuation of the above named cause from one o'clock P.M., May 21st, 1901, at Vinita, I.T., and that the above and foregoing is a full true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise.

Subscribed and sworn to before me this the 28th of May, 1901, at Chelsea, I.T.

Signed, C. R. Beckinridge,
Commissioner.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing and that the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 24th of August, 1901.

[Signature]

Commissioner.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 23, 1901.

In the matter of the application of Arthur Lynch for enrollment as a Cherokee Freedman; he being sworn and examined by Commissioner T. H. Needles, testified as follows:

A. S. Hoken, Attorney for Applicant.

- Q. What is your name? A. Arthur Lynch.
Q. How old are you? A. 32.
Q. What is your postoffice address? A. Vinita.
Q. What district do you live in? A. Delaware.
Q. Do you apply to be enrolled as a Cherokee Freedman? A. Yes sir.
Q. Have you ever been recognized by the Cherokee Nation as a Cherokee Freedman? A. Yes sir.
Q. Does your name appear upon the roll of 1880? A. No sir.
Q. Does your name appear upon any of the rolls of the Cherokee Nation? A. Yes sir, on the Wallace Roll.
Q. Who do you desire to enroll besides yourself? A. Just myself.
Q. What is your father's name? A. Joseph Lynch.
Q. He living? A. Yes sir.
Q. What is your mother's name? A. Sophia Lynch.
Q. She living? A. Yes sir.
Q. Where were you born? A. Cherokee Nation, Delaware District.
Q. You always lived in the Cherokee Nation? A. Yes sir.

The 1880 roll, the 1896 roll, and the Korns Cliffton Roll examined and the name of the applicant not found thereon. The Wallace Roll examined and the name of the applicant is found on page 123, No. 2593, Arthur Lynch, Delaware District.

- Q. Are you married? A. No sir.

Arthur Lynch applies for the enrollment of himself as a Cherokee Freedman. His name is not found upon the authenticated roll of 1880, or the census roll of 1896, after an examination of said rolls, but he is identified upon the roll known as the Wallace Roll. He avers that he is the child of Joseph and Sophia Lynch, and Jean Lynch has applied to this Commission to be enrolled as a Cherokee Freedman, and he has been so enrolled upon what is known as a doubtful card No. 376. Applicant makes satisfactory proof as to his residence, and the testimony taken in the matter of the application of his father, Joseph Lynch, for enrollment of himself and family will be made a part of the record in the case at bar, and a copy of said testimony will be filed with the testimony now being taken. Said Joseph Lynch has been enrolled on D. Card No. 376. Applicant will be notified by mail when the Commission arrives at the decision in his case.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 25th day of May, 1901.

T. H. Needles
Commissioner.

D-383

... copies of this testimony will be filed in

... I wish to see the original of the

... testimony would be taken on this day at eight o'clock A.M.

... testimony: the record shows that the testimony

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File with Cherokee Freedmen, D-134, Arthur Lynch.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, T.T., October 1, 1901.

In the matter of the application of Joe Lynch et al. for enrollment as Cherokee Freedmen.

Testimony introduced by Cherokee Nation.

Appearances:

A. S. McRea, attorney for the applicants;
J. S. Davenport, of counsel for Cherokee Nation.

REES CRAVENS, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q What is your name? A Rees Cravens.

Q How old are you? A I am about 48.

Q What is your postoffice? A Vinita.

A. S. McRea: In view of the fact that the Cherokee Nation has already offered rebuttal testimony in the Joe Lynch matter, I ask that they state in advance what material fact they wish to bring out, whether it is on new matter or what. I certainly object to any testimony unless it is upon some new matter that they wish to bring out or develop.

Mr. Davenport: We will state, in introducing testimony, unless the record shows that we have closed up the questions of disproving allegations of the applicant which he has attempted to prove, that is, of the ownership, and his return to the Cherokee Nation within the time provided by the treaty, that we will still introduce testimony. It may be possible the record shows we closed; of course if it does I agree with him, but if it does not show that fact, we are still on our branch of it.

Commissioner: Can the attorney for the applicant cite anything in the record in the nature of an agreement or understanding that the case has been closed.

A. S. McRea: That was my understanding.

Commissioner: Can you cite anything in the record to that effect?

A. S. McRea: Except to this extent; the son, in the person of Mr. Lon Lynch, of the owner of the applicant, testified as to the ownership, and he also gave testimony as to the return, and naturally the presumption would be that the testimony on the part of the Cherokee Nation was closed.

Commissioner: What do you propose to prove by these witnesses?

Mr. Davenport: That he did not qualify within the time provided by the treaty, and that he has not resided here continuously since then.

Commissioner: The Commission is compelled to pursue a very liberal course in regard to these cases, though it is aware of there being in some respects very trying to counsel on both sides, and it is also very trying to the Commission. The law under which the Commission operates seems to require, for a practical discharge of the obligations imposed, rather more latitude than is usually allowed, and the objection of counsel for the applicant is noted in the record. At the same time, however, in this case the testimony will be taken into consideration, in connection with the objection, by the full Commission. The proceedings and requirements of the Department are very liberal towards applicants; at the same time they regard that the record is in some instances being unnecessarily delayed. You can proceed with the witness.

Mr. Deavenport: How long have you lived in this place?

A. Oh I have lived in it off and on ever since the war.

Q. Did you ever live in Kansas? A. Yes, I lived in Kansas.

Q. Live in Iola, Kansas? A. I lived in Iola about 12 or 13 years.

Q. About what years did you live in Iola? A. I lived there in '64 or '4, '8, along in there, different years, I was in Iola, that was my home when I was around in there; I lived in different parts of Kansas.

Q. Do you know the applicant, Joe Lynch, in this case? A. Yes, I have seen him.

Q. Do you know where he lives now? A. Down here on Grand Street not far from Island Ford.

Q. Did he ever go by any other name, if you know? A. Some calls him Joe Bunzard and some Joe Lynch.

Q. When did you first get acquainted with the applicant? A. When he lived in Iola, Kansas.

Q. When was that? A. That was along, oh it must have been 10 years since I first knew him, or close onto that.

Q. When was the last time you knew him living in Iola, Kansas? A. I can't tell you the exact time when I did see him because -

Q. Where did you first get acquainted with him? A. In Iola, Kansas.

Q. When was that with reference to the close of the war? A. Not long after the close of the war.

Q. Did he have a family? A. Yes, he had a wife, I don't remember now how many children he had.

Q. What was his wife's name? A. Some calls her Foss and some calls her Sophia, she answers to either one of those names.

Q. Was his family living at Iola when you first got acquainted with him? A. Yes, sir.

Q. How long did they live there? A. Oh, they lived there seven or eight years or more, he used to work for Dan Havelly putting wood, and the Davis boys.

Q. You got acquainted with him in Iola, then, just after the war? A. Yes.

Q. And he lived there to the best of your knowledge about how many years? A. He must have been there eight or nine years, somewhere along there, six or seven, I never kept no count of it before he left there.

Q. Do you know anything about his children, did he have any? A. I have seen his children, but I never took no particular observation of them, I seen them all.

Q. Did his family live anywhere close to you? A. Right along, his wife used to stay in the house with my wife.

Q. Where was he? A. He was working, chopping saw-logs and working around down there.

Q. S. McFee: What is your occupation? A. All round man, no particular work, any line there is a dollar or five cent a day, any man got a job of work, don't bother any one certain thing.

Q. How long after the war was it that you first became acquainted with the applicant, Joe Lynch? A. I don't know the exact time, but I know I met him in town there for a number of years, right around that town, I don't know when he left.

Q. You don't know as regards - you didn't know him in the year 1864? A. I wouldn't say for certain, I expect I did and I will not say for certain.

Q. Do you know anything about his ownership? A. No, sir, don't know that.

Q. His going out of the Cherokee Nation during the war, you know anything about that? A. I know he came up there to Kansas.

Q. When did he remove there? A. I don't know exactly when he came, he came with old Uncle Mose Grimes and James Barker and team.

Q. When was that? A. That was right after the war, or time of the war, along onto that, right along there near the time they raised out of there.

Q Well, when did he return? A I don't know when he returned.

Q How long before the war was that? A Before the war, he wasn't before at all.

Q It was after the war? A Yes, sir, he wasn't up there before the war.

Q You don't know where he went to before the war? A No, sir.

Q How long did you live in Kansas? A I have been in and out there ever since the close of the war, I came to Iola, up here to Cherokee, Kansas, when the first house was ever built.

Q I will ask you if you are a citizen of the Cherokee Nation? A I am a married man here, I married into citizenship here.

Q Just answer my question, yes or no? A I have never made no claim, no application for any claim.

Q And you have no particular calling for a living? A I do anything that I can make an honest living at.

Q Mention some of the things you do? A Haul, clean up, do anything, cut wood, anything in general.

Q How long do you work at any one particular work? A Just as long as that job is done, then I look for another.

Q What do you realize out of these jobs? A Whatever I can get out of them, and when that is done I am looking for another one.

Q How long have you been married? A I have been married twelve years, a little more.

Q To whom were you married? A I was married to Louisa Rope.

Q And you know Joe Buzzard? A Yes, I have been knowing him right around here for a number of years.

Q How long have you known him right around here? A I have known him in and out I think about 20 years when I first been in and out, I have seen him at different places.

Q Well how long have you known him in and out in Kansas? A I told you how long, I told you he lived there but I don't know when he left there.

Q What part of that in and out was in Kansas? A I must have knowed him seven or eight years right around Iola there and maybe longer.

Q That was since the war? A Yes, he lived there.

Q Didn't you testify a while ago that you have been knowing him for 35 years? A I did, I expect I have known him longer than that, I didn't say positive, I expect I have knowed him longer than that in my rounds, I didn't stay right around him all the time.

Q 25 years of that time you have known him in the Cherokee Nation? A I didn't say positive I have known him that long right in one place, but I can say positively I have knowed him right here in the Cherokee Nation for 15 or 20 years.

Q How long did you know your wife before you married? A I knowed her about three or four years.

Q And you been married to her twelve years? A Yes, maybe longer.

Q Where did you first meet her? A In Iola, Kansas.

Q You married her in Kansas? A Yes, sir.

Q Then when did you move to the Cherokee Nation with her? A Well when I first come down here with her, to the best of my knowledge, which I can prove by facts, little Ike Martin was a boy about that high.

Q I don't know him, tell about how many years? A That must be close onto 25 or 26 years, longer I expect, little Ike I expect is 25 or 26, I used to know him, I used to come here and hire a horse and buggy and he take me around over the Nation.

Q You knew your wife four years before you married? A I expect I knew her longer than that.

Q Come down to the fact of it? A I haven't got any specified time how long I knowed her.

Q I want to ask you the question? A Well I have done answered that.

Q Now you say you knew your wife four years before you married her? A I expect I did and maybe longer.

Q Tell how much longer? A I didn't say how long.

Q You married her in Kansas? A Yes, sir.

Q Stayed there about 12 years with her? A Yes, sir, I stayed in different parts of Kansas.

Q And came to the Cherokee Nation with her? A Yes, sir.

Q Now how long have you lived in the Cherokee Nation with her?

A Right here in this town, I have been permanent in this town, about five years, permanent.

Q With you and your wife? A Yes, sir.

Q You said now that you knew him in all 35 years? A Knew who for 35 years?

Q Your wife, knew her for 35 years? A I am just telling the time and different places I have lived.

Q Didn't you tell you have known your wife altogether 35 years?

A Maybe longer.

Q And yet you knew her four years before you married her?

A I can't give you any positive time about that.

Q Lived with her 12 years in Kansas? A I can't give you any positive time, I lived with her about 12 years, I lived with her 12 years, she has been dead now about nine months, altogether will make about 12 years.

Q You lived with her 12 years in Kansas? A I didn't say I lived with her that long in Kansas, I say I lived, I expect I have lived with her that long.

Q The fact of the matter is you don't know anything about any of it?

A I know anybody I see, if I see you and anybody ask me if I see you I can tell them I see you.

Q Do you swear this Joe Lynch is the same one lived in Kansas, Iola Kansas, 40 years ago? A I didn't say 40, 30 he lived there, and I can prove by dozens of people.

Q How long? A I didn't tell you how long.

Q How long did you say? A I didn't say but I tell you he lived there.

Q How long did he live there? A I told you he lived there about seven or eight years around about the country and when he moved I don't know, it aint no use for him to say he didn't live there.

Q We don't propose to argue the question. A Well you talked like he didn't live there; he lived right there.

Q Now I want to go back with reference to the number of years you lived with your wife? A You needn't go back, I have told you all the reference you will get out of that, I told you that now, you are just losing time, I am not telling you the positive date about how long I lived, but I tell you what I can do, I have the papers down in my trunk will tell the dates, they tell you the dates, they are recorded and you can't dispute them.

Q Now according to your estimate you lived with and known your wife 16 years; is that right? A You can make it as you please, I have give it now according to my best knowledge, I kept no record of it.

Q In other words, you just came here to swear against Lynch? A I don't have it to do, I wouldn't lie for you if you were my daddy.

Q Now didn't you just come here to swear against Joe Lynch? A No, sir I haven't got nothing against the man, not a thing sir, but I don't propose to tell a lie for nobody, a man can't hire me to do that; no, sir; if I am acquainted with a man and a man ask me if I know him --

Q Well how many children did Joe have in Kansas? A Well I know one time me and my wife was down there, and I couldn't count them, I says, Iees, how many children have you got for Lord sakes, and she says, Mr. Graven, you see them running around here like quails, count them, and I couldn't count them.

Q How many did you count? A I counted eleven or twelve, but I understand that he was the father of 22, I don't know it by the facts.

the last count he had 22 I think what his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Cravens, how long have you known Joe Lynch, all told?

A I can't tell you exactly, all told, but you asked me how long did I know him and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out ever since the close of the war.

Mr. Davenport: Did you have any neighbors up there at Iola, Kansas, do you remember the names of any that know about Joe being there?

A Yes, there is Dr. Charteon, Dan Harvelly, Bill Davis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably here, or their representatives.

A. S. McRea: Now your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedman cases D-383, D-384, D-385, D-386, D-387, D-429, D-480, and D-233.

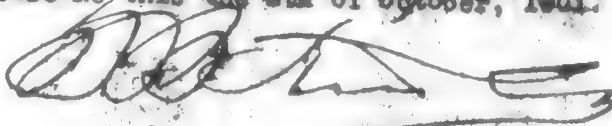
Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedman D-376.

Note: Copy of testimony also should be filed in case of Robert Foster, D-522, and in D-270, as to children of Riley Curls and Nancy Curls.

Luce C. Jones, being duly sworn, says that he stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Luce C. Jones

Sworn to and subscribed before me this 21st of October, 1901.



Commissioner.

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[illegible]

FILED
DEC 23 1904
COMMISSION TO FIVE TRIBES.

Cherokee F D-576.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I. T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of JON LYNCH ET AL., as Cherokee freedmen.

APPEARANCES:

Applicant appears in person and by attorney, A. S. McKee. Cherokee Nation by its representatives, W. W. Hastings and L. B. Bell.

SIMON LYNCH, being first duly sworn, testified as follows:

BY MR. MCKEE:

- Q What is your name? A Simon Lynch.
Q What is your age? A 74.
Q What is your post office? A Spavinaw.
Q Are you a recognized citizen of the Cherokee Nation? A I don't know, I guess I am, I hardly know.
Q Does your name appear upon the authenticated roll of 1880? A I reckon so, I don't know.
Q You are an applicant for citizenship in the Cherokee Nation, are you not? A Yes sir.
Q Are you acquainted with Joe Lynch, the applicant who made application for enrollment as a citizen of the Cherokee Nation on May 21, 1901? A Yes sir I knew him all his life pretty near.

BY MR. HASTINGS:

Comes now the representatives of the Cherokee Nation and asks permission to interrogate this witness as to his competency to testify.

BY MR. HASTINGS to witness:

- Q Your name is Simon Lynch? A Yes sir.
Q You live in Saline District? A Yes sir.
Q You have lived there since the war? A Yes sir ever since.
Q Are you the same Simon Lynch that was convicted of the larceny of some hogs? A Yes sir, and I was not there when the hogs were stolen.
Q You were sent to the Cherokee jail at Tahlequah, Indian Territory? A Yes sir.

BY MR. MCKEE:

Comes now the attorney for the applicant and objects to the motive of examination relative to the competency of the witness for the reason that the witness having been convicted of some crime committed in the Cherokee Nation under the Tribal Government is no test of witnesses competency to give any testimony in cases of this character, in view of the fact that

under the laws of Congress enacted and put in force in the Indian Territory, the witness herein is now declared under and by virtue of said laws a United States citizen clothed with all the rights and privileges of other citizens of the United States.

BY THE COMMISSIONER:

Objection noted.

BY MR. HASTINGS:

Q You were convicted of stealing hogs from Charles Thompson, who was afterwards Chief of the Cherokee Nation? A That is what it was said.

Q That was the Cherokee penitentiary at that time at Tahlequah?

A I don't know what it was.

BY MR. McKEA:

Q How long have you known Joe Lynch? A Ever since he was a little boy.

Q Was he a slave of a Cherokee citizen of Cherokee blood? A Yes sir.

Q Do you know whether or not of your own knowledge that Joe Lynch went out of the Cherokee Nation during the war of the rebellion?

A Yes sir.

Q Do you know to where he went? A No sir I don't know.

Q Do you know when he returned back to the Cherokee Nation? A Yes sir.

Q State when you first saw him in the Cherokee Nation after the war? A In the fall of '66.

Q At what place in the Cherokee Nation did you see him? A In the six mile bottom there at my house.

Q You were then living in the Cherokee Nation? A Yes sir.

Q Did you have any conversation with him? A Yes sir stayed all night with me.

Q Did he state to you at that time for what purpose he returned to the Cherokee Nation? A Coming to look out a home.

Q How long did he remain? A About three days.

Q Do you know where he went after that? A Said he was going back to Kansas.

Q When was the next time you saw him in the Cherokee Nation?

A About the first of February, he moved down.

Q Of the next year? A Yes sir.

Q Of 1867 was it? A Yes sir.

Q Did he bring his family out that time? A Yes sir.

Q You have known him to reside continuously in the Cherokee Nation ever since? A Never any where else that I know of.

Q How many persons did his family consist of at the time he returned in February, 1867? A One besides him and his wife.

BY MR. HASTINGS:

Q Where do you live now? A I live right there adjoining places to my old homes' place in Saline District.

Q Were you living there at the time Joe Lynch came to your house as you have stated the first time? A No sir.

Q Where were you living at that time? A In six mile bottom on a place of George Clark's.

Q Then Joe never moved his family down here in 1866? A No sir.

Q And if any of these witnesses testify to that effect they testify to what was untrue? A I don't know what they testify. He didn't move until I moved there in Saline District to my house.

Q When did you move to your house? A He moved to my house.

Q When did you move to your house? A In 1867.

- Q What time in 1867? A February first.
- Q Of 1867? A Yes sir.
- Q How long had you been over there before he come back? A I had been there about two months.
- Q Then it was about two months after you moved over to your house before Joe Lynch brought his family? A Yes sir.
- Q And you moved over there about the first of February, 1867?
- A Yes sir.
- Q Joe's first wife was related to you wasn't she? A He never had but one.
- Q Was that wife related to Joe? A Joe's sister.
- Q Why didn't you testify for Joe in this case up at Vinita? A He didn't want me, didn't call on me.
- Q Did you ever testify for him before? A No sir.
- Q You never testified for him before the Kern-Clifton roll? A No.
- Q Nor before the Wallace court? A No sir.
- Q Where did you make a crop in the year 1866? A Upon Cabin Creek.
- Q On which side of Grand River? A On the west side.
- Q When did you move there? A In the summer.
- Q Summer of 1866? A Yes sir.
- Q Then where did you go? A I come down there close to the old Military road at Mrs. Kell's old place.
- Q Then where? A To the six mile bottom where George Clark let me have a place.
- Q What time did you move? A In the fall.
- Q Of 1866? A Yes sir.
- Q What year is this? A I don't know.
- Q What year was it that Wallace made his roll of freedmen? A I don't know, I can't keep no time of anything that way.
- Q What year did Kern-Clifton make a roll? A I don't know.
- Q Don't know any of these years? A No sir.
- Q What kind of a team was Joe driving when he come down to your place? A An old sorrel mare and one bay.
- Q What road did he come in coming to your place? A All roads, he started from Sulphur Springs and come right down over the mountain that is as far as I can tell you he come.
- Q What Sulphur Springs was that? A The Bob Daniels' old place.
- Q On which side of the river was Bob Daniels' place? A West side.
- Q Did he come by Watt West's place? A No sir.
- Q How far did Watt West live from the road? A He did live on the side of the road when he come there.
- Q Where did Joe Lynch settle when he first come to your house in '67 with his family? A Right where he is now.
- Q That is the first place he ever settled? A Yes sir.
- Q And he has been living right there ever since? A Yes sir.
- Q How long did he stay at your house before he went and settled this place where he resides now? A He stayed there about two months I guess to the best of my knowledge.
- Q Then he settled this place in the early summer? A No sir.
- Q Or spring? A No sir, it was too late to make a crop.
- Q Then he come down there too late in the spring of '67 to make a crop? A He worked at my place a little.
- Q And went from your place to where he lives now? A Yes sir.
- Q Built him a house? A Yes sir.
- Q Did nobody come with him besides his family? A I don't recollect now.
- Q What is his oldest child's name? A Fester.
- Q And she was with him? A Yes sir.
- Q Didn't have any other children at that time? A No sir.
- Q You say you don't remember any other colored people coming with him? A No sir it has been so long I don't recollect.
- Q You used to have his sister for your wife? A I have got her yet when I am at home.

BY MR. McKNA:

- Q Did you ever vote in the Cherokee Nation? A Yes sir might near every election.
- Q Have you voted in the Cherokee Nation since the time you were convicted of this offense of which Mr. Hastings speaks? A Yes sir every time since never voted when I was a slave, voted since.
- Q You have enjoyed all the rights and privileges of a Cherokee citizen every since 1866, have you? A Yes sir.
- Q You speak of living on a place that you got from Mr. George Clark in 1866? A Yes sir.
- Q He recollects that does he not? A I guess so.
- Q How far do you live from that place that you rented from Mr. Clark with reference to the place you live on now? A About two and a half miles.

BY THE COMMISSION:

- Q Where did you go during the war? A Kansas.
- Q And when was it you returned to the Cherokee Nation? A February, 1866.
- Q That is when you came there, February, 1866? A Yes sir.
- Q How long had you been here did you say, until you saw Joe Lynch?
- A He come in the fall after I come here, yes sir, horse back.
- Q Was it cold weather then? A No sir not right cold, it was in the fall.
- Q He come to your place? A Yes sir come to Mr. Park's place where I was living.
- Q How long did he remain there Mr. Lynch? A Until spring.
- Q I am talking about him? A He stayed there about three days.
- Q Just on a visit? A He come down to look out a location.
- Q And then where did he go if you know? A He went back to Kansas, said he was.
- Q Did you first move from the George Clark place about the first day of February? A Yes sir.
- Q And you answered Mr. Hastings that you had been there about two months did you not when you saw Joe Lynch? A When he come back from Kansas I was living at George Clark's place.
- Q And the next time where were you living? A Where I live now.
- Q How long had you been there when you saw Joe Lynch the second time? A Two or three months.
- Q When did you go to where you are living now? A February I moved over there the first of the spring.
- Q February, 1867? A Yes sir.
- Q That is the story you want to tell the Commission is it? A That is what I have told.
- Q I have not misled you have I? A No sir I guess not.
- Q You want to tell the Commission that you moved over to where you are living now about the first of February, and you had been living there about two or three months when you saw Joe Lynch and his family? A Yes sir when they moved down.
- Q When he came to where you are now living in the spring of 1867 who did he have with him? A His wife.
- Q Who else? A His child.
- Q Wife and one child? A Yes sir.
- Q That is the child Hester? A Yes sir.
- Q So far as you know Hester and her mother had not been in the Cherokee Nation after they had left during the rebellion until you saw them where you now live? A That is right so far as I know.
- Q How was it that Joe Lynch come down and picked out a place?
- A That is what he said.
- Q Did he make any improvements or locate him a claim so far as you knew? A Yes sir right where he lives.

- Q Did he improve it? A Put some logs around it, made a foundation of logs around it.
- Q Did he do that in three days time? A Yes sir I went and helped him.
- Q Was that on the prairie? A Yes sir.
- Q Was there any timber close there? A Yes sir, right south of it.

BY MR. McKEA:

- Q Do you remember that you stated in your examination in chief, when I asked you the question, when was the first time that you saw Joe Lynch in the Cherokee Nation, your answer was in the fall of '66, is that correct? A Yes sir.
- Q Then I asked you when was the next time you saw him, and your answer was about the first of February, 1867?
- Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to the leading questions that are being asked by the attorney for the applicant.
- Commissioner: Objection noted.

- Q Did you make that statement? A Yes sir.
- Q When was the first time you saw Joe Lynch in the Cherokee Nation after the war? A Fall of '66.
- Q How long did he remain in the Cherokee Nation at that time? A About three days at my place.
- Q Did you have any conversation with him? A I talked with him all the time he stayed there.
- Q What did he say if anything with reference to coming back to establish his citizenship in the Cherokee Nation? A Said he come back here to located out a place.
- Q Did he locate a place at that time? A Yes sir.
- Q Do you know where? A Yes sir.
- Q Is it the present place he lives on? A Yes sir.
- Q When was the next time you saw him in the Cherokee Nation after the war? A In the spring, I don't know just what dates.
- Q Where were you living when he returned to the Cherokee Nation the second time? A Right where I live now.
- Q How long had you been living where you live now before Joe came back? A Not long, just a little while.
- Q Did he bring his family with him at that time? A Yes sir.
- Q You know what month it was that he brought his family to where you now live? A I don't know exactly.
- Q How long did he stay with you at that time? A He stayed until he built him a cabin, there where he lives now.
- Q That was in '67? A Yes sir.

BY MR. HASTINGS:

- Q You say that was about two or three months after you moved there from the George Clark place? A He stayed there two or three months with me.

BY MR. McKEA:

- Q It was two or three months before he moved to where he lives now? A Yes sir.
- Q And you stated that you hadn't been where you live now very long until he came there? A Yes sir.

BY MR. HASTINGS:

- Q You have testified that you moved over to this place from the George Clark place about sometime in February, 1867? A Yes sir.
Q You have testified that you were over there about two or three months when Joe Lynch came back the second time with his family?
A Yes sir, I was.

BY MR. KELL:

- Q Was not there no other colored people living around there?
A Crap and Art.
Q Did they come to see Buzzard? A Yes sir they lived at the old bosses place, got it from Lon Lynch.

BY MR. HASTINGS:

- Q You are positive that this child Hester was born in Kansas, and that they brought it down here with them? A Yes sir.
Q About how old was Hester when they came down? A I don't know.
Q About how old? A I can't tell she was a child.
Q Running around, walking and talking? A Something I believe.
Q Was she a year old? A I can't tell how old she was, don't know that.

LEWIS LYNCH, being first duly sworn, testified as follows:

BY MR. McFRA:

- Q What is your name? A Lewis Lynch.
Q What is your age? A Near about 50.
Q What is your post office address? A Unknown.
Q Are you a recognized citizen of the Cherokee Nation? A Claim to be, yes sir.
Q Is your name on the Authenticated roll of 1860? A Yes sir.
Q Are you acquainted with Joe Lynch? A Know him by the name of Joe Buzzard, yes sir.
Q Now is the same person present and an applicant for citizenship in the Cherokee Nation? A Yes sir.
Q How long have you known him? A All my life.
Q Did he belong to a citizen of Cherokee blood of the Cherokee Nation before the war? A Yes sir.
Q To whom did he belong? A To Joe Lynch.
Q Did he go out of the Cherokee Nation during the war of the rebellion? A Yes sir.
Q Do you know to where he went? A To Kansas.
Q Do you know when he returned back to the Cherokee Nation with reference to the Treaty? A They said it was in 1866, I was quite a boy and didn't keep records of the dates.
Q Did you see him in the Cherokee Nation after the war? A Yes sir.
Q What time after the war? A It was along in the winter.
Q Of what year do you remember? A They say it was '66, I kept no records of the dates at all.
Q Where did you see him in the Cherokee Nation? A At my father's.
Q Who was your father? A Simon Lynch.
Q The gentleman who has just testified? A Yes sir.
Q Were you present when Joe Lynch came to your father's house?
A Yes sir.
Q How did he come? A Horse back.
Q How long did he remain at your father's house? A Two or three days not longer.

- Q Did he say anything with reference to coming down for the purpose of establishing his citizenship of the Cherokee Nation at that time? A I didn't hear him at that time.
- Q Where did he go to after he left your father's house at that time? A The old folks said he went back to Kansas.
- Q Did you see him in the Cherokee Nation after that? A Yes sir.
- Q About how long after the first time you saw him? A It was along in the spring the next time.
- Q Of the next year? A Yes sir.
- Q Where did you see him then? A In Saline District.
- Q At what place? A At my father's where we lived, we had moved out of Delaware District into Saline District.
- Q Did he bring any one besides himself at that time? A He brought his family.
- Q How many persons did it consist of at that time? A Two to my best knowledge, they were his wife and daughter.
- Q Was it his present wife? A Yes sir.
- Q Do you know the name of the daughter? A Hester.
- Q Hester who? A Hester Foster now.
- Q Did he at that time begin making preparation for a permanent location in the Cherokee Nation? A Yes sir the last time he came he did.
- Q Where did he make that location? A In Delaware District.
- Q The place where he now lives? A Yes sir.
- Q And that was in the spring you say of '67? A Yes sir to the best of my knowledge, I don't know anything about the dates, but it was the next spring after I saw him first.
- Q Where did he make his home while making preparation for the place? A With my father and mother.
- Q How long did he stay there? A I disremember just how long.
- Q But you do know that he moved from your father's place over to the place where he now lives? A Yes sir.
- Q Have you known him to be continuously in the Cherokee Nation ever since that time? A Yes sir.
- Q You are close neighbors are you not? A About two and a half miles.

BY MR. HASTINGS:

- Q Joe Lynch, the applicant, is an uncle of yours is he not? A Yes sir.
- Q You never took the stand to testify for him before have you? A No sir.
- Q You don't know very much about this you saw? A No sir.
- Q You only know the dates they told you they were, that is all you are attempting to testify to? A Yes sir.
- Q You know what date Mr. Wallace made a roll of Cherokee freedmen? A No sir.
- Q Do you know when that big freedmen payment was made? A Which one?
- Q The last one? A No sir, I don't.
- Q You don't know when Kern-Clifton made a roll? A No sir.
- Q What year were you married? A I don't know that.
- Q Are you a married man? A Yes sir.
- Q Got some children? A Yes sir.
- Q What is the date of the birth of the first one, what year? A I don't know.
- Q You don't know no years do you? A No sir not particularly.
- Q You and your father and the attorney for the applicant talked over this case to what you were going to testify to? A No sir.
- Q Never mentioned it? A No sir.

- Q Never said anything to Mr. McRae outside? A No sir.
- Q He never talked to you about what you know about the case? A Yes sir, but not on the outside.
- Q Inside of the room then? A Yes sir, outside is outside, and inside is inside.
- Q He went over it with you and your father? A Yes sir.
- Q And you father told you about what he knew about it in your presence and you testified to the same thing? A No sir, I didn't.
- Q You don't know the year do you? A Which year.
- Q When you first saw Joe Lynch? A No sir, they claim it was in 1866.
- Q They claim it and that is all you know about it isn't it? A Yes sir.
- Q Where was you born? A In the Cherokee Nation.
- Q Where was you living when Joe Lynch moved his family down there? A In Saline District.
- Q On whose place? A Simon Lynch's place.
- Q Same place you are living now? A Same place he is living.
- Q He was living right there when he moved his family down where he is living now? A Yes sir.
- Q Are you sure he had one child? A That is all I remember.
- Q You remember that one? A Yes sir.
- Q If Joe Lynch swears that he didn't have that child, he is mistaken isn't he? A I suppose he is.
- Q Do you know he is? A Yes sir if he swears that he didn't have it when he come.
- Q About how old was Nester when they moved there? A I don't know.
- Q You remember they had a child, how big was it? A A good big child, large enough to be walking.
- Q Walking? A Walking, yes sir.
- Q Talking? A I don't know about that.
- Q Did he come the next time in a wagon? A Yes sir.
- Q Do you remember what kind of horses he had? A No sir.
- Q They didn't tell you yesterday about that serrel team? A No sir.
- Q Didn't you hear your father say that? A No sir.
- Q Your father told you yesterday that he had moved from one place to another? A No sir.
- Q Didn't tell you that? A No sir, I knew that.
- Q But you don't know what year you moved? A No sir.
- Q You don't know anything about the years? A No sir.
- Q You don't know a single year in which a single one of your children were born do you? A Yes sir.
- Q What year was the first one born? A I couldn't say exactly.
- Q Then you don't know do you? A No I don't know that I could positively say now.
- Q You don't know what year only what they said when Joe Lynch come back do you? A No sir.
- Q You don't know what year you moved to the place where your father lives now, only what you were told? A No sir.
- Q How long had you been living there when Joe come back? A Not quite a year we moved there in the winter and the next spring I saw Joe Lynch.
- Q Simon had been living where he lives now for about a year when Joe come back? A No sir not a year.
- Q About how long? A Moved over in the winter and I saw Joe the following spring.
- Q How long had your father been living there when Joe brought his family? A Might have been three or four months.
- Q Is that your best judgment? A Yes sir.

- Q Had you put in corn? A No sir.
Q Fixing to put in corn? A Yes sir.
Q Do you know what month your father moved there? A No sir.
Q You don't know what year? A No sir.
Q What year is this? A I don't know exactly.
Q You don't know what year you were born in do you? A No sir.
Q How many children have you? A Three.
Q What year was the second one born in? A I don't know.

W. A. WEST, being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. HASTINGS:

- Q What is your name? A W. A. West.
Q What is your age? A 63.
Q What is your post office address? A Spavinaw.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Have you always lived, with the exception of the war, in the Cherokee Nation? A Yes sir.
Q Is that in Saline District? A Yes sir.
Q Were you in the army during the war? A Yes sir.
Q Where did you settle first after the war? A My permanent house was on the road there, on the Military road north of Grand River there where I lived.
Q When did you settle there? A About 1867, commenced it in '67 and finished it that winter, I commenced in the summer like getting out the lumber.
Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Do you know where he now lives? A Yes sir I presume I do, at the same place where he has lived, I haven't been at his house lately.
Q You have been at his house? A Yes sir, I have been there often.
Q It is claimed that he lives at the same place? A Yes sir.
Q How far is that from where you formerly lived? A It is about two and a half miles or three miles, somewhere along there, I always called it about two miles.
Q I will ask you if you knew him when he lived there that near you? A Yes sir.
Q When did he first come back to the Cherokee Nation after the war? A To the best of my recollection he come back in 1868.
Q Were you living at this place you had made? A Yes sir.
Q And you commenced that in 1867? A Yes sir.
Q What time in '67 did you commence that place? A I commenced getting out the lumber along in the spring and summer and I lived in a tent on the same road about a quarter from that place.
Q Were you living in the house when you saw this applicant? A Yes sir.
Q Where was he going? A He said he was going from Kansas, coming there to make a home in the Cherokee Nation and he inquired at my house where Simon Lynch lived.
Q Did you direct him to where Simon Lynch lived? A Yes sir, I told him Simon Lynch lived across the river somewhere about the old Lynch farm.
Q Was Joe Lynch in a wagon? A Yes sir.
Q Did he have the members of his family with him? A He had his wife and one child, as well as I remember.
Q Do you remember what kind of a team he had? A He had just a common pony team.

- Q Was your house on this old Military road? A Yes sir right along the edge of the road.
- Q When did you get that house completed, was you moved into it?
- A I moved into it in the fall of 1867.
- Q and it was not until after that time that he came along in a wagon inquiring for Simon Lynch's? A No sir, in 1868.
- Q You think it was the next year? A Yes sir the next year, and may be the following.
- Q And it couldn't have been earlier than 1868? A No sir, nor later '68 is the year as well as I remember.
- Q Was any one else along with him in the wagon besides his family?
- A No sir.
- Q He said he was from Kansas, did he? A Yes sir.
- Q And he was inquiring the way to Simon Lynch's? A Yes sir.
- Q He didn't know them at that time where Simon lived? A No sir I reckon not by his inquiring.
- Q This same Simon that you have seen here as a witness in this case? A Yes sir the same Simon.

BY MR. McKEA:

- Q You have testified in this case once before haven't you? A Yes sir.
- Q And you haven't any improvement to make by way of testimony on what you have already testified to? A No not that I know of.
- Q Do you know where Simon Lynch was living in 1866? A Across the river.
- Q He was in the Cherokee Nation in 1866 was he? A Yes sir.

BY MR. HASTINGS:

- Q Do you know of Simon Lynch's having been convicted of stealing hogs? A I have heard he was convicted.
- Q In the Cherokee courts? A Yes sir.
- Q Sent to the Cherokee penitentiary? A Yes sir.

JOE L. THOMPSON, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Joe L. Thompson.
- Q What is your age? A 66.
- Q What is your post office address? A Vinita.
- Q Are you a Cherokee citizen by blood? A Yes sir.
- Q Where do you live, you don't live in the town of Vinita do you?
- A 12 Miles south of Vinita.
- Q How far from Grand River? A About three miles.
- Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you remain in the Cherokee Nation during the war? A No sir.
- Q Where did you go, south? A Went to Texas.
- Q What year did you return after the war? A I came back in the winter of '67, I came to Fort Gibson.
- Q When did you land up there near where you live on Grand River?
- A In the spring of '66 I come to the place where I now live and made a crop, in the spring of '69 I moved on the Aranna place.
- Q Do you know where the applicant, Joe Lynch, now lives? A Yes sir
- Q How far does he live from you? A About three miles I guess.
- Q Was he living there when you came back? A No sir, not to the best of my recollection.
- Q Do you remember of his coming back there? A It was the best of my recollection, that he moved there to that place about 1869.

- Q You say he wasn't living there when you returned? A No sir.
- Q And you came back yourself in the early spring of 1868? A Yes sir.
- Q Was he living there when you came back in 1868? A If he was I didn't know it.
- Q What is your best judgment? A He was not living where he is living now.
- Q It is plain to him that he settled there the first place that he settled in the Cherokee Nation? A The best of my recollection is he never moved to the place where he lives until 1869.
- Q Was that the first you saw of him in the Cherokee Nation after the war? A Yes sir.
- Q Did you know him before the war? A Yes sir.
- Q Did you know his owner? A Yes sir his owner was my uncle.
- Q Where was you living in 1869 when you first saw this applicant? A On what was called the Arsena place.
- Q How far from Simon Lynch's? A About four or five miles the way you have to go I reckon.
- Q You feel positive that this applicant was not there when you first came back in 1868? A No sir there was no improvements there when I come back in 1868.
- Q Do you know Simon Lynch? A Yes sir.
- Q Do you know of his being convicted of stealing hogs in the Cherokee Nation? A No sir.
- Q You have heard of it? A If I did, I don't remember it.
- Q You live there in Tahlequah District? A Yes sir.

BY MR. McKEA:

- Q I understood you state that you did not return to the Cherokee Nation until sometime in 1867, is that right? A Yes sir.
- Q Where were you in '66? A I guess I was in Texas.
- Q If Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866 and his testimony is born out by Ed Lynch and Simon Lynch, are you prepared to say that that is not true? A I haven't said so.
- Q You would not say so would you? A I was not here in 1866.
- Q You have testified in this case before, haven't you? A I don't know, I guess so.
- Q And you are not now prepared to add nor detract anything from the statements you first made in the case, at this time are you? A No sir, I don't know that I am.

G. W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A G. W. Clark.
- Q What is your post office address? A Vinita.
- Q Are you a Cherokee citizen by blood? A Yes sir.
- Q Were you in the Union army during the war? A Yes sir, I served nearly three years in the army.
- Q When was you married? A I was married on the 8th of June, 1865.
- Q Just after the war? A Yes sir, eight days after I was mustered out of the service.
- Q Where did you first settle down after the war? A Upon the river in the neighborhood of where I live now.
- Q Up in the north end of Saline? A Yes sir, it was Saline then but it is in Geoweseecowee now I think.

- Q That was just across the river from the north end of Saline?
A Yes sir, I lived on the west side of the river I made a crop there in '66.
- Q Where did you make a crop in '67? A I moved in the fall of '65 along in December to another place about ten or twelve miles from there, the place where I was, to a place in Delaware District known as six mile bottom.
- Q Near the old Joe Lynch place? A Yes sir.
- Q On which side of the river? A On the same side, west side.
- Q That was in the fall of '67? A No sir, fall of '66.
- Q Where did you live in the year 1867? A I lived there four or five years.
- Q Continuously? A Yes sir.
- Q Did you know the applicant, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you know him before the war? A I saw him but I don't say that I was acquainted with him.
- Q You knew his owners? A Yes sir I knew old Uncle Joe Lynch.
- Q Was he a relative of yours? A No sir.
- Q Do you know where this applicant now lives? A Yes sir, I am well acquainted with the place, about two to two and a half miles from where I lived four or five years.
- Q You moved up there in the fall of '66? A Yes sir.
- Q And you lived there four or five years? A Yes sir, may be six.
- Q When did he move back to this place after the war? A The first I recollect of seeing him I seen him at old man Simon's place, old man Simon in the fall of '66 lived on my place in this six mile bottom, after I moved there I let him have some house and lived there that winter and early in the spring of '67 he moved to what is known as the old Joe Lynch bottom.
- Q You mean Simon? A Yes sir, I loaned him a yoke of steers to do the breaking he did there.
- Q How long after you moved to this place was it before you saw Joe Lynch at Simon's? A I didn't see him there for a couple of years.
- Q How long was it after you moved to this place where you moved in '66 before Joe Lynch came there and make this improvement? A My recollection is that he didn't make this improvement the first year after I come there.
- Q You think the first time you saw Joe was at Simon's? A That is the first time I saw him.
- Q Where was Simon living then? A Where I located him on the east side of the river.
- Q That was on your place? A No sir.
- Q And you think that was to your best judgment, 1868? A It was 1868 or '69.
- Q And you owned the place where Joe Lynch afterwards built? A Yes sir.
- Q Were you acquainted with the country before he built there?
A Yes sir, that was on the road there where I did the most of my passing.
- Q Did you travel that road frequently? A Yes sir.
- Q About how far did Joe Lynch the applicant located from this road?
A He located on a little ridge about 150 or 200 yards from the road, it may have been more or less.
- Q The place could be seen easily from the road could it? A Yes sir.
- Q Nothing in the way? A He built his house there on the prairie.
- Q You know Simon Lynch, who has testified in this case? A Yes sir, I am well acquainted with him.

Q Do you know of his having been convicted up there in the Cherokee courts for stealing hogs? A I had moved away from there then, but I heard of it.

Mr. McRear: We object to hearsay.

Commissioner: Objection noted.

Q It was a common report was it? A He was convicted, no common report about it.

Q What official positions have you held, you have been a member of the Cherokee Senate and Cherokee Council a number of times?

A Yes sir I was in office 16 years, I have---

Q Also on the Circuit bench? A Yes sir, eight years.

Q Solicitor of Saline District? A Two years.

Q And you were in the Union army? A Yes sir, in the third regiment

Q And your best judgment is that Joe Lynch came back in '68 or '69? A That is when I saw him.

Q And you were living there in that same neighborhood, and he located out there on a little prairie near the road that led to the store at which you traded, and where there was a black smith shop? A It was a big prairie, three or four miles across the neck of it, it reaches from there I expect to Chetopa. From my place back there is a wood land hilly place until you get down to where the house was, and there was a little prairie there where I lived but he lived on the main big prairie.

BY MR. PHILL:

Q The place that you stayed up there in six mile bottom, was that that Diersteater place? A It was known as the Jim Daniel's place before the war, I bought it from the estate.

Q Now is that six mile bottom situated with reference to the river? A The river bends around it.

Q The river is on three sides of it? A Yes sir.

Q Now in getting from your house to this store you speak about, there was only the one road? A Yes sir just one road.

Q There would have been no way of getting to your store by a road except by taking another road that didn't go in that direction?

A No sir it went north.

Q But you went west from your house to the store? A Yes sir, nearly due west according to the section road.

Q That was the only road with a direct route to the store? A Yes sir.

Q That road passes then 150 or 200 yards of the place that Joe Lynch built? A Yes sir, and I think he is living there yet.

Q The McGarry store was at the Kell place? A Yes sir.

Q It was the only trading point in that immediate neighborhood?

A Yes sir, the only one anywhere around there.

Q If Buzzard had this house built there in '67, you think you would have seen it? A I know I would because there was a little circumstance there, me and Walker Daniels got after a bull right there where he built that house, and right over the swag there, there in running him up there, he runed past him and the bull killed his horse or mare, hooked his insides out.

Q That was in '67? A Yes sir.

Q There was no house there then? A No sir the first that was built was built this side of there. That was before he put that up on the left hand side of the road as you went, a colored fellow fellow by the name of Beny Daniels, and the next was the house that Joe lives in.

- Q Then there was no other houses therein that country right then?
A No sir, no other house, I made a claim right across the next ridge and I let Andy Frye have that.
Q Nobody living in there? A No sir.
Q Indians or nobody else? A Nobody at all.
Q And it was in '68 or '69 before you discovered Buzzard there in this house? A My opinion is he didn't build a house there in '69, and he stayed a year in the bottom before he built a house.

BY MR. MORRIS:

- Q When was the first time that you saw Joe Lynch in the Cherokee Nation after the war? A It was over at Simon's in '68 or '69, I think '69.
Q You are not positive as to which? A No sir.
Q How where was he when you saw him at that time? A He was in and around Uncle Simon's there on the place, he come in there with a pony team, and had a wife and child.
Q Were you present when he came? A No sir.
Q That was what you heard? A There wasn't but a few people there and when a man dropped in the neighborhood we knew he was a stranger, it wasn't settled like it is now, wasn't many people in the country.
Q Where was you living in the fall of '66? A I moved on this place that we were above referring to in that bottom east of where Joe Lynch built his place.
Q How far with reference to where Simon Lynch lived at that time in '66 on your place? A There were two houses on the place he occupied, one of the houses from the house I lived in right across the hill north, I expect it was 180 or 200 yards, one of the houses that he was in, that he kept one of his wives in. He kept another house, I will tell you about that. It was about a quarter of a mile south of the place and he kept his other wife there.
Q Are you prepared to dispute the statement made by Simon Lynch and Joe Lynch, that Joe Lynch came to Simon Lynch's place where he was living in the fall of '66 on horse back? A If he did I didn't see him.
Q He come have come though without your having seen him, couldn't he? A I guess he could have without my seeing him, by coming in the night and going away.
Q Answer yes or no? A He could have come, but I never seen him.
Q I understood you to say in your examination in chief that you had no special acquaintance with Joe Lynch before the war? A No sir that is right.
Q Then the first time that you ever seen him to know him was sometime in the year 1868 or '69, is that correct? A Yes sir.
Q He could have been in and around Simon's at the time he said without your knowing him in view of the fact that you had no acquaintance with him? A He couldn't have been around there very much because I watched every body pretty close them times.
Q Sometimes? A All the time.
Q You had no acquaintance with his family? A No sir, the first time I saw his wife she was at Simon's and had a child, and then they had one regular every year.
Q You never testified before in this case? A No sir.
Q You knew all about the facts that you are testifying to now in 1901 and 1902, didn't you? A Yes sir, of course I would have, I come acquainted with them in '67 and '68.

- Q You know these facts at the time the applicant made his application for enrollment? A Yes sir.
- Q And you were not called upon at that time to testify? A No sir.
- Q When was the first time that your attention was called to the fact that you would be required to testify in this case, Mr. Clark? A I don't know, think it has been more than three or four weeks ago that I received a notice from the Commission that I was summons here in this case, and it read like I had testified in the case, but I couldn't recollect that I had testified in the case. I was very well acquainted with this fellow. He was hard up and we furnished him milk all of the time, my wife and I, and she knew him better than I did, he carried milk from our house all the time, we treated him as well as we could.
- Q Do you know how long Joe had been at Simon Lynch's at the time you first saw him in '66 or '67? A No sir, I couldn't say the exact time, might have been a week or two or maybe longer.

BY MR. HASTINGS:

- Q I believe you stated that you people sort of kept a watch on the people who came into the country immediately after the war?
- A Yes sir.
- Q It was necessary in those days, was it not. A Yes sir, very necessary.
- Q And for that reason you knew about everybody that came around in your neighborhood? A Yes sir I watched everybody.
- Q You know when you first saw Joe Lynch ever at Simon's that he was a newcomer? A Yes sir, there was but a few of us and we knew when a new man came there.

BY MR. McNEA:

- Q Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866, are you prepared to state upon your own knowledge that he didn't return up there up there at that time?
- A No he didn't return up there, I aint prepared to say in the fall whether he returned there or not.
- Q You don't know whether he did or not? A No sir.

BY MR. HASTINGS:

- Q You know you never heard of him returning there in the fall of 1866? A No sir.

BY MR. McNEA:

Objected to for the reason that it is incompetent, irrelevant, and inadmissible.

COMMISSION: Objection noted.

BY THE COMMISSION:

- Q When did you first come up in that neighborhood where you are living now and where Joe Lynch lives now? A I aint living there now.
- Q You went there after the war? A I went there several times in the summer, I think I traded for the place along in August, during the summer of '67. Summer of '66 after this Treaty was made on the 10th of July, 1866.
- Q You moved up there close to where Joe Lynch now lives in December, 1867? A '66.
- Q December, 1866? A Yes sir.
- Q You knew Mr. Clark where Simon Lynch was living when you moved up there, did you? A Yes sir, I let him move over there on my place, after I got it.

- Q From your knowledge of the people and condition as they were and the nature of the country, can you state to this Commission positively that Joe Lynch and his family did not come to that neighborhood in the Cherokee Nation until about 1868? A 1868 or '69.
- Q If at any time after December, 1866, the applicant and his family had come to that portion of the Cherokee Nation, you think you would have known it? A Yes sir, known it after a day.
- Q You don't know as to whether or not Joe Lynch himself might not before at Simon Lynch's horse back in the fall of '66 and stayed three days as they claim? A Might have been at Simon's, but he wasn't living there in the fall, he was over at the other place about six miles from there, he might have been there. This road that I told you that runs to this trading point, he lived about a mile from that down in the bottom, right above where the Military road crossed Cabin Creek.
- Q How far from where he lives now? A I suppose it is four or five miles on a direct line now since the lines were run out.
- Q Did you ever have a conversation with Joe Lynch shortly after he returned there with reference as to whether or not that was his first trip to the Cherokee Nation after the war? A No sir. You never heard him say whether or not that was his first trip?
- A I don't know as I ever did.
- Q Do you know whether in the fall of 1866 that he made any foundation of a house? A He never made none there where he is living now.
- Q How old was this child that Joe Lynch and his wife brought there with them? A It seemed to be in his wife's lap.
- Q A year old probably? A I don't think it was a year old. I don't think he let them get a year old before he had another one.

CASE CLOSED.

H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled case, and that the above and foregoing is a true and correct copy of his stenographic notes thereof.

(Signed) H. M. Vance.

Subscribed and sworn to before me this 14 day of December, 1904.

(SEAL) (Signed) Charles H. Sawyer
Notary Public.

Maggie Kennedy, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

Subscribed and sworn to before me this the 23rd day of December, 1904

Maggie Kennedy
Charles H. Sawyer
Notary Public

FILED
DEC 17 1904
COMMISSION TO THE TRIBES.

Cherokee Freedman D-384

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., NOVEMBER 22, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Arthur Lynch as a Cherokee Freedman.

APPEARANCES:

Applicant appears by attorney, A. S. McRea,
Cherokee Nation by W. W. Hastings.

BY MR. McREA:

Comes now the attorney for the applicant and asks that a copy of the testimony taken in the matter of the application of Joe Lynch, et al., Cherokee Freedman, D-376, be made a part of the record in the matter of the application for the enrollment of Arthur Lynch, Cherokee Freedman D-384.

BY THE COMMISSION:

The request of the attorney for the applicant will be complied with and copies of the testimony referred to will be filed with and made a part of the record in this case.

-o-o-o-o-o-o-o-o-

H. M. Vance, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 22nd day of November, 1904, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said date.

Subscribed and sworn to before me this 17 day of December, 1904.

H. M. Vance
Charles H. Sawyer
Notary Public.

A. F. Mc.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Joe Lynch, et al., as Cherokee Freedmen, consolidating the appli-
cations of:

Joe Lynch et al.	Cherokee Freedmen	D	376
Robert Foster,	"	"	D 522
Hester Foster et al.,	"	"	D 383
Arthur Lynch,	"	"	D 384
Cyrus Lynch	"	"	D 385
John Lynch	"	"	D 386
Vina Benton et al.,	"	"	D 387
Nancy Curle et al.,	"	"	D 429
Rachel Downing et al.,	"	"	D 430
Martha Lynch et al.,	"	"	D 1077.

-: D E C I S I O N :-

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Joe Lynch for himself and wife, Sophia Lynch, and minor children, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle J. (Jane), Ethel J. (Jane) and Josephine Foster; thereafter, on October 30, 1902, there was filed with this Commission an affidavit showing the birth, on March 28, 1902, of Arthur Foster, child of the applicant, Hester Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and illegitimate minor child, Lula Buffington; by Walter Downing for himself, and

wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; thereafter, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 26, 1902, of Herbert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Leo B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curls, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Leo B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Herbert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on Motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 18, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curls, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Leo B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said appli-

cants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Herbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, John and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curis and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedman enrollment cards No. D 429 and D 1077, it appears that one John Buffington is the father of the said applicant, Lula Buffington, and that one Watson Hicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Leo B. (Bennett) Lynch. But one John Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 558-R 271), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Hicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I. T. D. 544-04), William Rector (I. T. D. 1468-04) Minnie Duncan, et al. (I. T. D. 1470-04), Samantha Chambers (I. T. D. 2296-04), Ed Williams (I. T. D. 4230-04), Martha Albert, et al. (I. T. D. 4732-04) and Moses Ross (I. T. D. 6066-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Hester Foster, James Foster, Pearlle J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and John Lynch, Vina Benton and Stella Benton, Nancy Curis, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Leo B. (Bennett) Lynch, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the Act of Congress below noted; and that Herbert Downing

should be enrolled as a Cherokee freedman, in accordance with the provisions of section twenty-one of the Act of Congress approved June 23, 1892 (50 Stat. 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) T. B. Bixby
Chairman.

(Signed) I. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,
this JUN 16 1905

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al.,
for enrollment as Cherokee freedmen, consolidating the applications
of:

Joe Lynch et al	Cherokee Freedmen D 376
Hester Foster et al	Cherokee Freedmen D 383
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Benton et al	Cherokee Freedmen D 387
Nancy Curis et al	Cherokee Freedmen D 429
Rachel Downing et al	Cherokee Freedmen D 430
Martha Lynch et al	Cherokee Freedmen D 1077.

D E C I S I O N .

The record herein shows that applications for enrollment, as Cherokee freedmen, were made to this Commission by Joe Lynch for himself, his wife, Sophia Lynch, and minor children, Eliza, Cynthia, J., Randolph, Ruth and Jackson Lynch; by Hester Foster for herself and minor children, James, Pearlle J., Ethel J. and Josephine Foster; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission showing the birth of Arthur Foster; by Arthur Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curis for herself and minor child, Lula Buffington; by Walter Downing for himself and wife, Rachel Downing; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Hurbert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Martha Lynch for herself and minor children, Jessie M. and Leo B. Lynch.

The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1866 and are descendants of and, with the exception of Hurbert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of none of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Hurbert Downing was born April 26, 1902; that he is the son of Walter Downing who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored," and that the said Walter Downing, father of said Hurbert Downing, has continuously resided in the Cherokee Nation since 1880.

It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Wester Foster, James Foster, Pearlle J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Vina Benton, Stella Benton, Waver Gula, Lula Huffington, Rachel Downing, Martha Lynch, Jessie M. Lynch and Ed B. Lynch as Cherokee freedmen should be denied under the provisions of section twenty-one of the act of Congress approved June 25, 1906 (34 Stat., 495); and it is further the opinion of this Commission that the said Herbert Downing should be enrolled as a Cherokee freedman, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Signed,	Tenn. Bixby,	Chairman.
Signed,	T. B. Needles,	Commissioner.
Signed,	C. R. Breckinridge,	Commissioner.
Signed,	W. E. Stanley,	Commissioner.

Muskogee, Indian Territory,
this Mar 5, 1904.

7. D. 384

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901.

Given under my hand this
day..... A. D. 1901.

.....
Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
..... day of....., 1901.

W. A. S. W. R.
Attorney for Applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A. D. 1901

Subscribed and sworn to before me
this..... day of..... A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMM. SHOW TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 13 1901

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Arthur Lynch
for enrollment as a Cherokee Freedman:

Case No. F. D. 384

To Arthur Lynch or A. S. McRea, Chelsea, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory. Indian Territory, on the following dates, to-wit: Oct. 1st 10 A.M. to 5 P.M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 11th day of Sept. 1901.

L B Bell
Attorneys for the Cherokee Nation.

COPY.

Cherokee Freedmen
D 384

Muskogee, Indian Territory, May 17, 1904.

Arthur Lynch,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., respecting, among others, your application for the enrollment of yourself as a Cherokee freedman. There has this day been forwarded to your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Tame Bixby

Chairman.

Encl. V-37

Register

Cherokee Freedmen
D 376, et al.

Muskogee, Indian Territory, May 17, 1904.

A. S. McKee,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 384, 386, 387, 429 and 430, together with a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Ransdolph, Ruth and Jackson Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Arthur Lynch, John Lynch, Vina and Stella Benton, Nancy Ours, Lula Buffington and Rachel Downing, as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 376 and 383.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. V-44
Register

W. H. By.
Chairman.

Cherokee Freedmen,
D 376, et al

Muskogee, Indian Territory, May 17, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Joe Lynch, et al., including the Commission's decision dated April 20, 1904, granting the application for the enrollment of Hubert Downing as a Cherokee freedman and rejecting the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth, Jackson, Arthur and John Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Vina and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing, and Martha, Jessie M. and Leo B. Lynch as Cherokee freedmen.

Respectfully,

James Dixby.

Chairman.

Incl. V-46

Through the
Commissioner of Indian Affairs.

Refer in reply to the following:

G.F.L.

Land.
31874-1904.

Copy

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. July 13, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized tribes dated May 17, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Joe Lynch for himself, his wife, Sophia Lynch and his five minor children, Eliza, Cynthia J. Randolph, Ruth and Jackson Lynch; of Hester Hester for herself and her four minor children, James, Pearlle J. Ethel J. Josephine and Arthur Hester; of Arthur Lynch for himself, of David Hanton for his wife, Vina Hanton, and minor child, Lula Haffington; of Rachel Downing for herself and her minor child, Herbert Downing; and by Martha Lynch for herself and her minor children, Jessie M. and Lee B. Lynch.

March 3, 1904, the Commission decided that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that some of the applicants are identified on the 1806 authenticated Cherokee roll, but all who were then living are found on the roll of citizens of the Cherokee Nation.

- 2 -

that the applicants, Joe Lynch and his wife Sophia Lynch were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and returned prior to February 11, 1867, established a home and have resided in the Cherokee Nation to the date of the record. The other applicants are descendants of Joe and Sophia Lynch and their sole title to enrollment is derived from them. The only question in the case appears to be when Joe and Sophia Lynch returned to the Nation, and the testimony of Joe Lynch is sustained by that of Allen Lynch and Anderson Lynch who swear that he returned prior to February 11, 1867.

On the part of the Cherokee Nation, C. L. Lynch testifies that he did not see the principal applicant, Joe Lynch, until 1901; Joseph L. Thompson that he did not see him until 1868; Walter A. West, did not see him until 1868.

The witness, Rees Craven, introduced by the Cherokee Nation, swears that he knew Joe and his wife, Sophia Lynch in Iola, Kansas, from 1866 to 1874 or 5, and they had twenty-two children at that time. The testimony of this witness is not satisfactory and in pertinent particulars he appears uncertain.

It appears that the Cherokee Nation conceded from the testimony of their own witnesses that Joe Lynch was in the Nation in 1868 with his wife, Sophia and Children, and as it is shown in evidence that Sophia was but seventeen years of age

at that date, the testimony of the witness, Graven, that she had twenty-two children at any time when he swears that he knew them, between 1866 and 1878, is a manifest falsehood.

In view of the record it is recommended that the Commission's decision adverse to the applicant be reversed, and the applicant enrolled as Charles Frederick.

Very respectfully,

A. G. Tanner

Acting Commissioner.

M. H. M.

W.

3 encl.

CONF.

J.P.

D.C. 28021-1904.
I.T.D. 5794-1904.
I R 2

PM

DEPARTMENT OF THE INTERIOR,

WASHINGTON, July 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

July 16, 1904, the Acting Commissioner of Indian Affairs submitted the Cherokee freedman case consolidating the applications of Joe Lynch, et al; Hester Foster, et al; Arthur Lynch; John Lynch; Vasa Benton, et al; Nancy Curtis, et al; Marshal Downing et al; and Martha Lynch, et al, and recommended that your decision adverse to the applicants be not concurred in and that you be directed to enroll such applicants.

Accompanying the papers is a motion for a rehearing, filed in the Indian Office by Joe Lynch for himself and the other applicants who claim through him, with letter from George P. Togie, of Vinita, Indian Territory, of June 6, 1904, which is not mentioned by the Acting Commissioner.

The Department does not feel warranted in reversing your decision upon the testimony presented.

The motion for rehearing bears no evidence of service upon the attorney for the Cherokee Nation, but in view of the showing made thereby, and particularly of the recommendation of the Indian Office, the Department deems it advisable to order a rehearing in the case, and the same is hereby directed.

A copy of the Acting Commissioner's letter, and the testimony with papers attached, also the application for rehearing with affidavits attached, are inclosed.

Respectfully,

(Signed) Theo. Ryan.

Acting Secretary.

3 inclosures.

Cherokee Freedmen

D-384.

Muskogee, Indian Territory, August 10, 1904.

Arthur Lynch,

Vinita, Indian Territory.

Dear Sir:

You are advised that the Commission is in receipt of departmental letter of July 21, 1904, remanding the Commission's decision of April 20, rejecting, among others, the application for your enrollment as a Cherokee freedman.

It is stated in said letter that the Commissioner of Indian Affairs recommends that the Commission's decision be reversed and the applicants be enrolled as Cherokee freedmen, and according to instructions contained therein you are hereby advised that you will be allowed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Monday, September 19, 1904, and introduce the testimony of such witnesses as you may be able to procure in support of your said application.

Respectfully,

Register.

Commissioner in Charge.

COPY

Cherokee Freedmen
D-384

Muskogee, Indian Territory, October 14, 1904

A. S. MoRea,
Attorney for Arthur Lynch,
Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Arthur Lynch as a Cherokee freedman, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Tuesday, November 22, 1904.

You are further advised that the said Arthur Lynch has this day been advised that he will be permitted to appear on said date and introduce such testimony as he may desire in support of said application.

Respectfully,

Register.

(SIGNED) *T. B. Needles.*
Commissioner in Charge.

Cherokee Freedmen
D-384

Muskogee, Indian Territory, October 14, 1904

Arthur Lynch,

Vinita, Indian Territory,

Dear Sir:

In the matter of the application for the enrollment of yourself as a Cherokee freedman, you are advised that this case will be taken up for final consideration, by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock, A. M., on Tuesday, November 22, 1904, at which time you will be permitted to appear and introduce such testimony as you may desire in support of said application.

Respectfully,

Register.

E. Needles.
Commissioner in Charge.

COPY.

Cherokee Freedmen

D-384.

Muskogee, Indian Territory, June 16, 1905.

Arthur Lynch,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for your enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-24.
Register

(SIGNED)

Chairman.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

A. S. McRea,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-31.
Register

Tame Kirby
Chairman

COPY.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-33.

(SIGNED). *Tame Dink*
Chairman.

COPY.

Cherokee Freedmen
D-376, et al.

Muskogee, Indian Territory, June 16, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee freedmen, including the Commission's decision dated June 16, 1904, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

On July 21, 1904, the Department remanded this case for rehearing and readjudication.

Respectfully,

Incl. 3-34.

Through the

Commissioner of Indian Affairs.

(SIGNED) *Tame Dixie*
Chairman.

J. S. J.

DEPARTMENT OF THE INTERIOR,

LLB

D.C. 1774-1907.
I.T.D. 8100-1908.

WASHINGTON.

8904-
8529-
8737-
8739-

January 4, 1907.

LRS.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 11, 1905, (Land 47227), the Indian Office submitted the record in the matter of the application for enrollment as Cherokee freedmen by Joe Lynch for himself and wife, Sophie Lynch, and minor children, Eliza, Cynthia Jane, Randolph, Ruth, and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearl Jane, Ethel Jane, Josephine, and Arthur Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and illegitimate minor child, Lula Buffington; by Walter Downing for his wife, Rachel, Downing, and his minor child, Herbert Downing, and by Martha Lynch for herself and her illegitimate minor children, Jessie May and Lee Bennett Lynch, including the decision of the Commission to the Five Civilized Tribes dated June 16, 1905, favorable to Herbert Downing and adverse to all the other applicants.

There appears to be no proper reason for granting said motion, and it is hereby denied.

The Department concurs in the recommendation made, and the Commission's decision is hereby affirmed.

The papers in the case, including said motion for review, have been sent to the Indian Office for its files.

Respectfully,

Thos Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 Inc. and 3 to Ind. Of.

Cherokee F.
D-224

Muskogee, Indian Territory, January 13, 1907.

Arthur Lynch,

Ketchum, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the Cherokee freedmen enrollment case of yourself, et al., filed by your attorneys September 7, 1905, denied.

Respectfully,

JMH

Commissioner.

Charles F.
B-376 et al.

Muskogee, Indian Territory, January 18, 1907.

Blue & Bulger,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed by you September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. H-54
JHM

Commissioner.

Cherokee F.
D-276 et al.

Muskogee, Indian Territory, January 18, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed September 7, 1906, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. N-85
JMH

Commissioner.

VB J. J. 384.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
MAY 22 1901



ATTY. GEN. C. F. SMITH

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

May 22, 1901

Post Office

Vinita St.

District

Delaware

1. Name

Arthur Lynch

Age 22

Owner's name

Citizenship

Year

Walker age 123

No. 2593

District

Delaware

Parents:

Father

J. Lynch - living

Citizenship

Mother

Sophia - living

Citizenship

2. Name of wife

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Robert

Citizenship

Mother

Citizenship

Names of Children:

3.

Year

Page

No.

Dist.

4.

Year

Page

No.

Dist.

5.

Year

Page

No.

Dist.

6.

Year

Page

No.

Dist.

7.

Year

Page

No.

Dist.

8.

Year

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Dist.

9.

Year

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No.

Dist.

10.

Year

Page

No.

Dist.

11.

Year

Page

No.

Dist.

12.

Year

Page

No.

Dist.

Application made by

No. 1

Stenographer

E. Rothenburger

Xref N. 376

A. S. McRhea, atty for applicant.

JW 001

19

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

L. R. Arthur Lynch,
Vinita, I. T.
Cherokee F-D-384.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. to R. 001

Trans. from C. Fr. D. 385

Cher. Fr. R. 881

of 1914-1915, 1916-1917, 1918-1919, 1920-1921, 1922-1923, 1924-1925, 1926-1927, 1928-1929, 1930-1931, 1932-1933, 1934-1935, 1936-1937, 1938-1939, 1940-1941, 1942-1943, 1944-1945, 1946-1947, 1948-1949, 1950-1951, 1952-1953, 1954-1955, 1956-1957, 1958-1959, 1960-1961, 1962-1963, 1964-1965, 1966-1967, 1968-1969, 1970-1971, 1972-1973, 1974-1975, 1976-1977, 1978-1979, 1980-1981, 1982-1983, 1984-1985, 1986-1987, 1988-1989, 1990-1991, 1992-1993, 1994-1995, 1996-1997, 1998-1999, 2000-2001, 2002-2003, 2004-2005, 2006-2007, 2008-2009, 2010-2011, 2012-2013, 2014-2015, 2016-2017, 2018-2019, 2020-2021, 2022-2023, 2024-2025, 2026-2027, 2028-2029, 2030-2031, 2032-2033, 2034-2035, 2036-2037, 2038-2039, 2040-2041, 2042-2043, 2044-2045, 2046-2047, 2048-2049, 2050-2051, 2052-2053, 2054-2055, 2056-2057, 2058-2059, 2060-2061, 2062-2063, 2064-2065, 2066-2067, 2068-2069, 2070-2071, 2072-2073, 2074-2075, 2076-2077, 2078-2079, 2080-2081, 2082-2083, 2084-2085, 2086-2087, 2088-2089, 2090-2091, 2092-2093, 2094-2095, 2096-2097, 2098-2099, 2100-2101, 2102-2103, 2104-2105, 2106-2107, 2108-2109, 2110-2111, 2112-2113, 2114-2115, 2116-2117, 2118-2119, 2120-2121, 2122-2123, 2124-2125, 2126-2127, 2128-2129, 2130-2131, 2132-2133, 2134-2135, 2136-2137, 2138-2139, 2140-2141, 2142-2143, 2144-2145, 2146-2147, 2148-2149, 2150-2151, 2152-2153, 2154-2155, 2156-2157, 2158-2159, 2160-2161, 2162-2163, 2164-2165, 2166-2167, 2168-2169, 2170-2171, 2172-2173, 2174-2175, 2176-2177, 2178-2179, 2180-2181, 2182-2183, 2184-2185, 2186-2187, 2188-2189, 2190-2191, 2192-2193, 2194-2195, 2196-2197, 2198-2199, 2200-2201, 2202-2203, 2204-2205, 2206-2207, 2208-2209, 2210-2211, 2212-2213, 2214-2215, 2216-2217, 2218-2219, 2220-2221, 2222-2223, 2224-2225, 2226-2227, 2228-2229, 2230-2231, 2232-2233, 2234-2235, 2236-2237, 2238-2239, 2240-2241, 2242-2243, 2244-2245, 2246-2247, 2248-2249, 2250-2251, 2252-2253, 2254-2255, 2256-2257, 2258-2259, 2260-2261, 2262-2263, 2264-2265, 2266-2267, 2268-2269, 2270-2271, 2272-2273, 2274-2275, 2276-2277, 2278-2279, 2280-2281, 2282-2283, 2284-2285, 2286-2287, 2288-2289, 2290-2291, 2292-2293, 2294-2295, 2296-2297, 2298-2299, 2300-2301, 2302-2303, 2304-2305, 2306-2307, 2308-2309, 2310-2311, 2312-2313, 2314-2315, 2316-2317, 2318-2319, 2320-2321, 2322-2323, 2324-2325, 2326-2327, 2328-2329, 2330-2331, 2332-2333, 2334-2335, 2336-2337, 2338-2339, 2340-2341, 2342-2343, 2344-2345, 2346-2347, 2348-2349, 2350-2351, 2352-2353, 2354-2355, 2356-2357, 2358-2359, 2360-2361, 2362-2363, 2364-2365, 2366-2367, 2368-2369, 2370-2371, 2372-2373, 2374-2375, 2376-2377, 2378-2379, 2380-2381, 2382-2383, 2384-2385, 2386-2387, 2388-2389, 2390-2391, 2392-2393, 2394-2395, 2396-2397, 2398-2399, 2400-2401, 2402-2403, 2404-2405, 2406-2407, 2408-2409, 2410-2411, 2412-2413, 2414-2415, 2416-2417, 2418-2419, 2420-2421, 2422-2423, 2424-2425, 2426-2427, 2428-2429, 2430-2431, 2432-2433, 2434-2435, 2436-2437, 2438-2439, 2440-2441, 2442-2443, 2444-2445, 2446-2447, 2448-2449, 2450-2451, 2452-2453, 2454-2455, 2456-2457, 2458-2459, 2460-2461, 2462-2463, 2464-2465, 2466-2467, 2468-2469, 2470-2471, 2472-2473, 2474-2475, 2476-2477, 2478-2479, 2480-2481, 2482-2483, 2484-2485, 2486-2487, 2488-2489, 2490-2491, 2492-2493, 2494-2495, 2496-2497, 2498-2499, 2500-2501, 2502-2503, 2504-2505, 2506-2507, 2508-2509, 2510-2511, 2512-2513, 2514-2515, 2516-2517, 2518-2519, 2520-2521, 2522-2523, 2524-2525, 2526-2527, 2528-2529, 2530-2531, 2532-2533, 2534-2535, 2536-2537, 2538-2539, 2540-2541, 2542-2543, 2544-2545, 2546-2547, 2548-2549, 2550-2551, 2552-2553, 2554-2555, 2556-2557, 2558-2559, 2560-2561, 2562-2563, 2564-2565, 2566-2567, 2568-2569, 2570-2571, 2572-2573, 2574-2575, 2576-2577, 2578-2579, 2580-2581, 2582-2583, 2584-2585, 2586-2587, 2588-2589, 2590-2591, 2592-2593, 2594-2595, 2596-2597, 2598-2599, 2600-2601, 2602-2603, 2604-2605, 2606-2607, 2608-2609, 2610-2611, 2612-2613, 2614-2615, 2616-2617, 2618-2619, 2620-2621, 2622-2623, 2624-2625, 2626-2627, 2628-2629, 2630-2631, 2632-2633, 2634-2635, 2636-2637, 2638-2639, 2640-2641, 2642-2643, 2644-2645, 2646-2647, 2648-2649, 2650-2651, 2652-2653, 2654-2655, 2656-2657,

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Roll with Cherokee Freedman D- 385, Cyrus Lynch

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Joe Lynch for the enrollment of himself and wife and five children as Cherokee Freedmen, being sworn and examined by Commissioner Breckinridge, he testified as follows:

- Q Give me your name? A Joe Lynch.
Q How old are you? A I guess about 60 years old.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Belknap.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A Yes sir, wife.
Q Any children? A Yes sir.
Q How many? A I have got the names and ages. (Presents paper)
Q You have six children under 21 years of age have you? A Yes sir.
Q The oldest one of these six is Viney? A Yes sir.
Q Are any of this six that we are talking about married? A No sir.
Q How long have you lived in the Cherokee Nation? A All my life, bred and born here.
Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
Q Give me the name of your father? A I don't know him, I never did see him.
Q Give me the name of your mother? A I don't know her, but she was named Viney; but she is dead.
Q Been dead many years? A Yes sir.
Q To whom did you belong before the war? A Joe Lynch.
Q He was a Cherokee citizen? A Yes sir.
Q You were his slave at the beginning of the war? A Yes sir.
Q Give me the name of your wife? A Sophia.
Q How old is your wife? A I guess she is about 45 years old.
Q When were you and she married? A I couldn't say when we did marry, hardly.
Q Well, how long ago? A Yes sir.
Q Before any of these children were born? A Yes sir.
Q She must be more than 45? A She must be more than that.
Q Is she the mother of your oldest child? A Yes, sir.
Q That child is 22? A She must be older than that then I guess.
Q Maybe about 50 isn't she? A Yes.
Q You know the name of her father? A No sir.
Q Did you know the name of her mother? A Yes sir.
Q What is it? A Her mother was named Chaney Ross, she is dead.
Q Has she been dead very many years? A Yes sir.
Q More than 20 years? A She died time the war was going on, I think.
Q To whom did your wife belong? A Belonged to Sam Ross.
Q She was a Cherokee citizen? A Yes, sir.
Q And your wife was a slave in the Cherokee Nation when the war started? A Yes sir.
Q Now these six children for whom you apply, the oldest one is named Viney? A Yes sir.
Q That child is 19 years old, isn't she? A Yes sir.
Q Then Eliza is that the next one? A Yes sir.
Q She is 16 years old, isn't she? A Yes sir.
Q Cynthia Jane, that's the next one isn't it? A Yes sir.
Q She is 16 years old? A Yes sir.
Q Then comes Randolph, is that it? A Yes sir.
Q Randolph is 15, is that right? A Yes sir.
Q Then comes Ruth? A Yes sir.
Q She is 15 isn't she? A Yes sir.
Q Then comes Jackson, he is 11 isn't he? A Yes sir.

Q And that's your last one? A Yes sir.

Q Are these children all living now? A Yes sir.

Q Are you on the 1880 roll? A No sir.

Q None of your family on the roll of 1880? A No sir.
1880 authenticated roll of citizens of the Cherokee Nation
examined and applicants not found;
1896 census roll of citizens of the Cherokee Nation
examined and applicants not found.

Q None of your family are on the 1896 roll? A No sir.

Q Did you draw stipend money for yourself and family at the big
payment? A No sir, I drew at the first payment.

Q Then none of you are on the Kerns-Clifton roll? A No sir.
Kerns-Clifton pay-roll of citizens of the Cherokee Nation
examined and applicants not found;
Wallace roll of citizens of the Cherokee Nation examined
and applicants identified as follows:
page 123 #2584 Joseph Lynch, Delaware District;
page 123 #2585 Sophia Lynch, Delaware Dist;
page 123 #2593 Vina Lynch, Delaware Dist.

Com'r to roll clerk: Vina is the last one you have got there?

A Yes sir.

Q Why are you not on the roll of 1880? A Well sir, I couldn't
tell you how come I wasn't on.

Q Neither you or your wife, did you apply to have yourself put
on that roll? A Yes sir.

Q And they wouldn't put you on, either one of you? A No sir.

Q Did they tell you why? A No sir.

Q Well then none of you are on the roll of 1880? A No sir, I
guess not.

Q Do you know the reason of that? A No sir.

Q Why did they refuse to put you on the Kerns-Clifton roll, all of
you? A I couldn't tell you that, only when I asked them they said
it was just through an oversight.

Q Where did you go during the war? A I went to Kansas.

Q Did your wife go with you? A No sir.

Q Did she ever go to Kansas with you? A Yes sir, she went after I
did I think, or a little before; she was a little bit of a girl.

Q I just want to know whether she went to Kansas with you?

A No sir.

Q Where did you marry her? A In Kansas.

Q You have got a child named Hester? A Yes sir.

Q Where was that child born? A They were all born and raised here.

Q I asked you about Hester, was Hester born in the Cherokee Nation?

A Hester wasn't, Hester was my baby.

Q Well, where was Hester born? A I believe she was --

Q Born in Kansas? A Yes sir.

Q Hester is 32 years old now? Is she? A I guess so, I don't know
the age myself.

Q That is the age you have got on this memorandum? A Yes, I got
a fellow to put the age down: just had to make a guess at it.

Q Where was Nancy born? A Down here in the Cherokee Nation. Out
here on the Delaware, right where I am living at.

Q All these other children where were they born? A All of them
was born right there.

Q In the Cherokee Nation? A Yes, sir.

Q Your wife didn't go to Kansas when you went there? A No sir.

Q You were married to her when you went to Kansas? A No sir.

Q When did she go to Kansas, when did you see her up there?

A I saw her there along in '85.

Q Where did you see her? A I saw her there about Allen County,
up there.

Q How long did you know her before you and she got married?
 A I guess I must have known her about 5 or 7 years I cannot say.
 Q Did you know her before she went to Kansas? A I know her
 people, they lived right down below where - -
 Q I am asking you if you know her? A Yes, I know her; she was
 just a little bit of a girl then.
 Q You know her before she went to Kansas? A Yes sir.
 Q How long had she been in Kansas before you married her, but how
 long after she got there before you married her? A I guess she
 had been there, I expect about four years.
 Q She had been there about four years and then you and she married
 there? A Yes sir.
 Q How old was your child, Hester, when you and your wife came back
 to the Cherokee Nation? A Oh she was just a young thing, just a
 little bit of a baby.
 Q Only a few months old? A Yes sir.
 Q How long after you married your wife before Hester was born?
 A It wasn't long.
 Q Less than a year? A No sir, I guess it must have been about
 nine months before she was born I guess.
 Q As you and your wife came back to the Cherokee Nation then about
 a year after you were married? A Yes sir.
 Q Because Hester was born and was a baby some months old? A Yes
 sir.

It now being the noon hour the Commission adjourns until
 1 o'clock PM.

M. D. Green, being first duly sworn, states that as stenographer
 to the Commission to the Five Civilized Tribes he correctly recorded
 the testimony and proceedings in this case and that the foregoing is a
 true and complete transcript of his stenographic notes thereof.

Signed, M. D. Green,

Subscribed and sworn to before me this May 22, 1901.

Signed, C. R. Breckinridge,
 Commissioner.

It now being the hour of one o'clock P.M. May 22, 1901, and
 the Commission having been called to order, the application for the
 enrollment of Joe Lynch et al. is continued as follows:

W. W. Hastings for the Cherokee Nation.
 A. S. McRea, attorney for the applicants.
 C. R. Breckinridge, Commissioner presiding.
 Chas. von Weise, Stenographer.

JOE LYNCH, the applicant herein, re-called and examined as
 follows by Commissioner C. R. Breckinridge:

Q I understand that you desire to make a correction in your testi-
 mony given in this morning? A Yes sir.

Q Then you testified that your child Hester was born in Kansas?

A Yes, sir, I made a mistake there.

Q You testified, as I recollect it, that the child Hester was born
 in Kansas and was a few months old when you came from Kansas after
 the war and came into the Cherokee Nation? A Yes sir, but she was
 born in the Cherokee Nation, all of them was born here, I just made
 a mistake this morning.

Q Did you bring your wife back from Kansas? A Yes sir.

Q When you first came back from Kansas, did you bring your wife
 with you? A Yes sir.

Q Do you mean to say that you don't remember if she brought a suck-
 ling babe with her? A Well when I first came I first came by myself

horseback and didn't bring her with me.

By Com'r Breckinridge: I want to warn you that you have made some very positive statements in regard to your coming here after the war and that when you testified this morning you said that you were positive that when you first came back to the Cherokee Nation from Kansas after the war that you brought your wife with you and that she had a baby in her arms at the time that was born in Kansas just a few months before you started, and now you come and desire to change all that and I simply desire to warn you that you are under oath and that you are to consider well what you intend to swear to for if you do not swear the truth you are liable to get yourself into trouble, very serious trouble in fact.

Q You say now that when you came here the first time from Kansas directly after the war, that you came by yourself on horseback and that your wife was not with you then? A No sir she was not.

Q And you also desire to correct your statement of this morning wherein you stated that when you and your wife came down here from Kansas, she had a baby in her arms? A No sir she did not, I made a mistake in that, the baby was born since then, she was born in the Cherokee Nation.

Q You say now you first came by yourself? A Yes sir on horseback to look out a location.

Q When did you come here by yourself, and where did you come to?

A On Grand river pretty close to where I am living now, and located me a place.

Q When was that? A November of '66.

Q Did you come down there then to prepare a place for yourself and family? A Yes sir, for me and my wife.

Q What work did you do there that time? A Located me a claim and laid the foundation for me a house.

Q What else did you do? A Never did nothing else then.

Q How long did you stay there before you went back to Kansas?

A Not very long.

Q Did you stay there until Spring? A No sir, maybe a week or two.

Q And then what did you do? A Then I goes back and gets my woman and comes down and builds my house.

Q What time was it you say you first come there? A It was in November.

Q How did you bring your wife when you come with her? A In a wagon.

Q Just you and your wife? A Yes sir.

Q Nobody else? A No sir.

Q Did you go right back to Kansas and get your wife and bring her right straight back here? A Yes sir.

Q Your daughter Vina is married is she? A Yes sir.

Q So you made a mistake there also when you said this morning that the children you applied for were all under age and living with you at this time? A Yes sir I made a mistake there, Vina is married, she has not been married very long and I had forgotten that she was.

By Com'r Breckinridge: So the application for her will not be continued, as she will have to apply for herself or be applied for by her husband.

By A. S. McRea, attorney for the applicant:

Q Mr. Lynch, you say that you were born in the Cherokee Nation?

A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where to? A Kansas.

Q When did you return to the Cherokee Nation? A In '66 in November.

Q Where did you first come to the Cherokee Nation when you returned the first time from Kansas? A I located right where I am living now, on the river in Delaware district in the Territory.

Q In the Cherokee Nation? A Yes sir.

Q Who were your owners before the war? A Joe Lynch.

Q You say that you laid the foundation of your house preparatory to

the moving of your family, your wife, from Kansas, when you came here that first time by yourself on horse-back and then went back and got your family? A Yes sir, went back for my woman.

Q How long had it been before you returned to the Cherokee Nation after you got back to Kansas that time? A I cant tell just exactly - I dont know just how long - it has been so long that I had done forget just the exact time.

Q Was it in December of the same year or in the January of the next year, in 1867 - was in in December of '66 or in January of '67, in other words, how long did you stay in Kansas before you came back to the Cherokee Nation after you had been here and located your claim and laid the foundation of your house preparatory to moving your family here, and then went back up there? A I dont think I was in there more than two months before I returned here with my wife.

Q Have you lived in the Cherokee Nation continuously ever since that time that you came back here with your wife? A Yes sir.

Q Did you and your wife belong to the same owners before the war?

A No sir, my wife belonged to Susan Ross.

Q Were you and she married before the war? A No sir.

Q When were you and she married? A After the war.

Q After the war closed? A Yes sir after the war closed.

Q Is your name on any of the authenticated rolls of the Cherokee Nation? A No, sir, not been able to find it on that, but it is on the Wallace roll.

Q Can you tell why it is not on the roll of 1880? A No sir I dont know.

Q Did you make application for enrollment then? A Yes sir I applied as a Cherokee Freedman when the census takers come round to the houses then.

Q Did you get on the roll then? A I cant tell if they put me on then or not, if they did they scratched me off again.

Q Was you rejected that you know of? A No sir.

Q You say you have lived continuously in the Cherokee Nation ever since November of December of 1866 up until now? A Yes sir I has lived here ever since then till now.

By W. W. Hastings, Cherokee Representative:

Q You were in here before dinner were you not? A Yes sir.

Q And you testified then that you brought your family with you when you came back from Kansas - your wife and one child? A No sir I did not bring any child, I made a mistake then; I dont know what I did say then.

Q You have found out since going to dinner and talking with your lawyer, that the age of your oldest child would be enough to have her born here, in other words, that she could not be the age you give in for her, and be a month or two old at the time you say you come back from Kansas - in '66? A No sir I haint talked it none, I just made a mistake in giving in the ages, I remembers now that that child was not borned then, she was borned after we got here.

Q Wasn't that oldest child born in Kansas before you come back to the Cherokee Nation? A No sir, it wasn't.

Q You testified that it was didn't you before the Kerns-Clifton Commission some five years ago? A No sir not of it being born in Kansas.

Q Didn't you swear then that you brought that child back with you when you and your wife come to the Cherokee Nation from Kansas right after the war? A No sir I dont know what I testified there.

Q Didn't you testify before the Kerns-Clifton Commission that you had this oldest child when you left Kansas after the war to come to the Cherokee Nation and that you brought it with you? A No sir I never told them fellers that.

Q You never swore that? A No sir.

Q Where did you live before the war? A Well sir, I lived in

Saline district with Lon Lynch's father.

Q You have seen Lon Lynch around here, the one that lives on Grand river, haven't you? A Yes, sir, that is my young master.

Q He was living there when you came back wasn't he? A No sir, I was in Flint.

Q Didn't he live in Flint? A I don't know where he lived then.

Q Was he living in Saline? A I was not in Saline.

Q Didn't you come back to the old Joe Lynch place? Also sir, I come back and located on this side of the river from the old place.

Q Didn't you swear before the Kerna-Clifton Commission that you come back to the old Lynch place? A No sir I never.

Q You mean going back to the old place then? A I told you that I never went there.

Q Who were your neighbors there? A Daniel Bar um.

Q Who else? A Davis.

Q What Davis? A I don't know nothing but Davis, he was a full blood Indian.

Q Where did George Clark live? A Tell George Clark lived away up there on Grand river.

Q How far from you? A Well I don't know exactly, I can't tell how many miles it was.

Q He wasn't your near neighbor then? A No sir.

Q Didn't you testify before that he was? A No sir.

Q Do you know Watt West? A Yes sir.

Q How far did he live from you then? A I never seed him then.

Q How long after that before you saw him? A I don't know exactly.

Q How far does he live from you now? A 15 or 16 miles as near as I can tell.

Q Where did you make your first crop after you got back from Kansas?

A The first crop I made was on a little bit of land I had rented from a full blood Indian.

Q What was his name? A Joe Dirteater.

Q Was that in Saline or Delaware? A That was in Saline.

Q How far from where you now live? A 4 or 5 miles, I don't know exactly.

Q Do you live in Delaware district now? A Yes sir.

Q How long did you stay in Saline, before you moved to Delaware district? A I never lived there at all, I just rented a piece of ground there and went over on horse back and worked it.

Q So you have lived practically on the same place that you now live ever since your return from Kansas? A Yes sir.

ALLEN LYNCH, called and sworn by Commissioner Breckinridge, testified as a witness on the part of the applicant:

Examined by Commissioner Breckinridge:

Q What is your name? A Allen Lynch.

Q How old are you? A 61 about.

Q What is your postoffice? A Winita.

Q How long have you lived in the Cherokee Nation? A Might say all my life.

Q Do you know the applicant there, Joe Lynch? A Yes sir.

Q How long have you known him? A We were born and raised on the same place.

Q You have known him practically all your life then? A Yes sir.

Q Did you know him during the war? A Yes sir.

Q Where did you see him during the war? A We were soldiers together and were both in the same regiment.

Q When were you discharged after the war? A In '65.

Q Where were you discharged? A At Leavenworth.

Q When did you see him after that? A We came to Neosho Falls together in '85 and I left him there in that winter, reckon about Christmas and came back here to the Nation.

Q Are Neosho Falls in Missouri? A No sir in Kansas.

Q Where did you locate him in the Nation on coming from Neosho Falls? A On the east side of Grandriver.

Q How long did you stay at that place? A Until some time in March.

Q Of what year? A '86.

Q On the east side of Grand river? A Yes sir.

Q Then where did you go? A Moved right down here to the mouth of this creek here.

Q Gabb in creek? A No sir, where Bull creek runs into Gabbia.

Q How long did you stay there? A Raised a crop there, a crop of corn, and staid there until June or July.

Q You say you staid on the east side of Grand river until March of 1886? A That was when I first moved over here.

Q You spoke of going first, when you got back, to a place on the east side of Grand river, when did you get there? A The first day of February '86.

Q How long did you stay there? A 7 or 8 days.

Q And then you come over here to Bull Creek, is that right? A Yes sir.

Q How long did you stay at this place at the mouth of the Creek? A We staid there until along in June or July.

Q Of what year? A '86.

Q Then what did you do? A We moved down to what was called the old Ark Simmons place.

Q Where is that? A About a mile from the old Lewis Kell place.

Q How long did you stay there? A We staid there until some time maybe in October, can't tell exactly.

Q Was it of the same year? A Yes sir.

Q Then were did you go? A Went to the Six Mile Bottom on Mo-Grarie's place.

Q How long did you stay there? A ~~xxxxxxxxxxxxxxxxxxxx~~ I don't know exactly - George Clark bought the place and we moved off.

Q Was that the same year? A Yes sir.

Q Where did you go to then after you left the place George Clark bought? A Went to the Dr. Thompson place.

Q Still in '86? A Yes sir.

Q How long did you stay there? A Until some time along in '87, cant tell exactly.

Q Was I in the summer or fall? A I left there in the summer of '87.

Q You say that you left Joe Lynch up on Neosho Falls? A Yes sir.

Q When did you see him again after leaving him up there? A I saw him while I was living on this Six Mile Bottom, he came down there to see his brother in law Himes, and to locate him a place.

Q Six Mile Bottom of what creek or river? A Grand river.

Q On which side of the river? A The west side.

Q Did he pick himself out a place there? A Yes sir.

Q Is that the place he is living on now? A Yes sir.

By A. S. McRea:

Q Do you know Mr. Lynch, when Joe Lynch came to this place that you speak of to seek him out a location, do you know when it was? A It was in the fall of '86.

Q Well you have known him to have lived in the Cherokee Nation continuously ever since he first moved to that place have you not? A He has never moved off of it since he came there.

By W. W. Hastings:

Q When did he move here with his family? A He got here with his family in '87.

Q Was it in the fall? A In the spring or summer.
 Q How long did he stay when he first came? A Week or ten days.
 Q Then did he go back? A Yes sir.
 Q He had no means then did he -- nobody had any at that time did they? A No sir, not much.
 Q Was he a horse-back or foot the first time you saw him? A He was horse back when he came there to look up a claim.
 Q How many children did he have when he came in the following spring or summer with his family? A I cant remember just exactly, must have had three, four, five or six. I dont know just how many.
 Q Did they come in wagons that time? A Yes sir.
 Q When he did come back with his family, where did he move to?
 A Right on the place where he lives now.
 Q He never went back to the Joe Lynch place? A No sir, right where he lives now.
 Q Is that in Delaware district? A Yes sir, right close to Cass's.
 Q How far is that from the old Joe Lynch place where he used to live before the war? A 4 or 5 miles.
 Q In the same neighborhood though? A Yes sir.

By A. S. McRea:

Q Are you acquainted with the children of Joe Lynch? A Well, yes sir, I cant give the names of them all, I cant count them all, he cant ever count them; I knowe them but I dont know their ages and cant give all their names. He cant even do that himself.
 Q Have you any knowledge of your own how old the oldest one of his children is? A No sir, I cant tell.
 Q Are you acquainted with the oldest one? A I knowe them all but I cant tell nothing about their ages, I lives there in two miles of them but I cant tell nothing about their ages.
 Q Were they all born here in the territory? A I think he brought two of them with him from Kansas when he come here first.
 Q When he moved here with his family you mean? A Yes sir.
 Q Were the others all born here? A I think they was.
 Q You dont know which ones were born in Kansas? A No sir, I think though that Hester -- a girl -- and the other one -- I dont know -- I dont know of any others was born there or not; The others though was all born right there where he lives. I dont know how many he brought with him from Kansas.
 Q Is the one that you referred to by name the oldest one? A Yes, sir, that I know of.
 Q You dont know of they have any older ones or not? A No sir I dont know.

By the Commission:

Q This place that you say that you saw Joe Lynch the first time when he came here to locate him a place, when he came here first on horse-back, was that in what you call Six Mile Bottom? A No sir, it was on the prairie, right on top of the prairie.
 Q You were living then yourself on the Six Mile Bottom? A Yes sir I was about four miles below there.
 Q And when you next saw him it was in the following summer? A Yes sir.
 Q When he was moving his family? A Yes sir.
 Q Did he move them all to this place near Six Mile Bottom? A Yes sir.
 Q How far from where you lived was th's place? A Must have been 4 or 5 miles or maybe six miles.
 Q Were you at his place when he got there? A No sir, he was there when I saw him, he was right there.
 Q How long had he been there when you first saw him and his family?
 A I cant tell you that.
 Q But that is the first time you saw him after you saw him on horse back by himself the year before? A Yes sir.
 Q You dont know if he had just come or not? A No sir I never asked him.
 Q Do you remember when he married in Kansas, were you present

at the time? A No sir I wasn't there. He married in '66 or '67, because we both belonged to the same regiment and were stationed out together and I left him there and during the time I left him there he married.

ANDERSON LYNCH, called and sworn by Commissioner C. R. Brock-inridge, as a witness, testified as follows on the part of the applicant: (Examined by Com'r Brock-inridge.)

Q What is your name? A Anderson Lynch.

Q How old are you? A I am about 36.

Q What is your postoffice? A Whites.

Q How long have you lived in the Cherokee Nation? A I was born and raised here.

By A. S. McRea.

Q Are you acquainted with the applicant, Joe Lynch? A Yes sir.

Q How long have you known him? A All my life.

Q Did you see him here in '66? A Yes sir.

Q What time of the year was it that you saw him? A It was in the fall of '66.

Q Where was it that you saw him? A It was right there on the river, he was making a claim where he is now living.

Q Did you know him before the war? A Yes sir.

Q Who did he belong to? A To Joe Lynch, the same man I did.

Q Are you acquainted with his wife? A Yes sir, a little, I have seen her in Kansas.

Q When did you see her in Kansas? A In '68, when I first got acquainted with her.

Q Were they married then? A Yes sir.

Q Do you know when Joe Lynch went back to Kansas for his family after he had first been here to locate him a claim? A Yes sir it was in the winter, and I think that he went up here to Oange Mission and had to stay a while and never got back here until in the winter of '67.

Q And did he then bring his family and locate where he is living now? A Yes sir.

Q Did they have any children born in Kansas? A They had one that I remember of, a girl.

Q What is its name? A Hester.

Q Was she born in Kansas? A Yes sir, I know she was.

Q How old was she when she came here from Kansas? A I don't know exactly.

Q Of your own knowledge, has Joe Lynch lived in the Cherokee Nation continuously ever since he came here in '66? A Yes sir.

By W. W. Hastings:

Q Have you ever been tried for anything? A Oh yes I have been tried.

Q What for? A I has been tried for murder.

Q What was done with you? A I was acquitted.

Q Ever been tried for anything else? A No sir.

Q You knew Joe Lynch before the war did you? A Yes sir, we was raised together.

Q Where did you live at the time that you say Joe came back here in the fall of '66? A On Lynch's Prairie, and heard of him being over there and came over to see him.

Q Is Lon Lynch your young master? A Yes sir.

Q And you say that Joe brought back his family from Kansas to the Cherokee Nation in the fall or winter of '67? A Yes sir, it was in cold weather.

Q He had one child then that you remember? A Yes sir, he didn't have any children with him the first time he came, he came the first time on horse-back by himself.

Q I mean when he brought his family - his wife? A Yes sir.

By A. S. McRea:

Q You are a Cherokee citizen are you? A Yes sir.

APPLICANT, re-called and examined by the Commission:

Q How did you get at the ages of these children that you handed in on this slip of paper? A I got a man to put them down.

Q Who told him the ages to put down? A I did. I just had to guess at it; I didn't know their ages exactly and had to guess at it, and he put them down as I said. I thought they was.

By W. W. Hastings:

Q Is your wife living? A Yes sir.

Q Where was this list made out? A It was made out over at home.

Q Was your wife present when it was made out? A Yes sir she was.

Q You talked with her about their ages didn't you? A So she can't count none; I talked with the man that put it down; of course she was standing there listening to me.

Q You are sometimes known by a nick-name are you not; as Joe Buzzard or Joe Lynch? A Yes sir.

C. L. LYNCH, called and sworn by Commissioner C. B. Brackinridge, testified as follows on behalf of the Cherokee Nation:

(Examined by Com'r Brackinridge)

Q What is your name? A C. L. Lynch.

Q What is your age? A 60.

Q What is your postoffice? A Stillwell, I. T.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life.

Q Do you know the applicant here, Joe Lynch? A Yes sir.

Q Did he belong to your father before the war? A Yes sir.

Q And at the time of the war? A Yes sir to the war to my father's estate.

Q Do you know what became of this man during the war? A He went to Kansas.

Q Did his wife Sophia belong to your father? A No sir, I am not acquainted with his family.

Q Do you know when this man came back to the Cherokee Nation after the war? A Not exactly.

Q What do you know of his coming back? A Well I came back myself in the winter of '66 and '67, in January or February.

Q And when did you first see this man after the war? A The first time that I saw him since the war was so-day a week ago.

Q Just a week ago? A I never saw him from then until last Tuesday a week ago.

Q Do you know where he lives near Six Mile Bottom? A Yes sir I have been to his house three or four years back, but he was not at home, I have not seen him since '62 until last week.

Q Then you have no knowledge of your own as to when he came back from Kansas to the Cherokee Nation? A No sir, I came back myself in '67 and stopped in Flint district and was going backwards and forwards from Flint to my old place in that year of '67, and I found some of the negroes there, but Joe Lynch had not come in yet in '67.

Q Did you pass by where he is living now in your wanderings back and forth? A No sir he was not there then.

Q I mean did you pass by that locality where he now lives? A Yes sir I was well acquainted with the country round there.

Q Was you by there in your rounds in 1867? A Yes sir I was all around there and there was no house there then.

Q In 1867 did you go by the exact spot where this man now lives? A I don't know that I did go by the exact spot, but I was round through the country there, backwards and forward.

Q What time in 1867 were you there? A I got back in February of '67

Q Was you right there where this man now lives in February of '67?

A I don't know that I was right where he lives.

Q What time in '67 were you in that neighborhood? A I went around through there frequently.

Q Were you there in the fall or summer of '67? A I was right around

the river then, from the place where this man says he lived.

Q Did you go through that neighborhood in the summer or fall of '67? A I don't remember if I did go through the exact place that this man lives at but I was on the other side of the river, just opposite two or three miles from there.

By W. F. Hastings:

Q You passed by his place about three years ago you say? A Yes sir, about 3 or 4 years ago, I went to his house but I did not see him as he was not at home.

Q About how far is that place from your old place? A Well I guess it is about 3 or 4 miles.

Q On which side of the river was your old place? A On the south side.

Q Of Grand river? A Yes sir.

Q When did your father die? A In 1851.

Q About the time the war came up? A Yes sir.

Q Did your father leave any property in that neighborhood in the way of farms and improvements? A Yes sir, left all his property there.

Q What were you going to there in '67 after you returned to the Cherokee Nation? A I came back and found our old place sold under the confiscation act and another man living on it, and I went up around there to look after it and the property my father had left.

Q How much of your time did you spend in that neighborhood in '67? A If I lived some of the time in Coweeseconed district on Grand river, I had some folks living there, and then I lived in Flint Hill and in during '67.

Q You say you never saw this man Joe Lynch in that neighborhood any time during that year? A No sir.

By the commission:

Q How far is Joe Lynch's home from your father's old home? A 3 or 6 miles.

Q Have you lived at your father's old home ever since the war?

A No sir.

By A. S. McRea:

Q When you came back for your interests in '67, you were only looking after your own interests and nothing else were you not? A Yes sir I was just looking after my property there.

Q You don't know whether or not Joe Lynch was at the place that he states he was or not at that time? A He was not there.

Q You are positive that he was not there? A Yes sir.

Q I understood you to say that you never went to the place where he now lives until about three years ago? A There was no place there at all at that time.

Q That was a very isolated country up around there then was it not?

A Yes sir it was not settled up much then, not as many there as there are now by any means.

Q It is possible that he could have been around there when you first came there and you not have seen him, is it not? A Oh yes it is possible.

Q Then he might have been there and you not have run across him?

A He might.

By the commission:

Q Did you see any of the rest of your father's signs around there at that time? A Yes sir.

Q Did you visit them? A Yes sir, I saw them all that was there, at the old place.

Q Did you make any inquiry as to where the rest of them were?

A I inquired for Joe and the balance of them.

Q Did you dispose of that property that year or the next? A No sir I was the only one here at the time.

Q When did you get rid of it? A I cannot say positively, my brother and Col. Bell were administrators and they sold it when they got back.

JOSEPH L. THOMPSON, called and sworn by Commissioner G. R. Breckinridge, testified as follows on the part of the Cherokee Nation.
(Examined by Commissioner Breckinridge.)

Q What is your name? A Joseph L. Thompson.

Q How old are you? A 62.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A All my life, except one year.

By V. V. Hastings:

Q When did you come back to the Cherokee Nation after the war?

A I got back to Cabin Creek in January, 1868.

Q Do you know the applicant, Joe Lynch? A Yes sir.

Q Do you know where he lives now? A Yes sir.

Q How far did you live from him then? A When I first settled there it was a mile and a half and now it is two miles.

Q Was he living there when you came back to the Cherokee Nation in '68? A No sir.

Q When did you say you returned? A January '68.

Q And he was not living there at that time? A No sir.

Q Did he move there since then? A Yes sir.

Q You were living then about a mile and a half from where he lives now? A Yes sir on what was then known as the Ahahoonie place.

By A. S. McRea:

Q How long have you known Joe Lynch? A I have known him nearly all my life, he belonged to my uncle.

Q Do you know where he went to during the war? A No sir, he came from Kansas after the war, but I don't know where he was all during the war, Kansas though I suppose.

Q Did he leave here during the war? A Yes sir.

Q When did he leave? A I don't know.

Q When did he return to the Cherokee Nation after the war? A To the best of my knowledge he returned in '68.

Q Where was the first place that you saw him in '68? A Where he now lives.

Q How long had he been there when you first saw him? A Only a few days.

Q Has he been living there continuously since '68? A Yes sir, I have been living there myself ever since and I have never known of him moving away.

Q Can you state positively of your own knowledge whether or not he was here in the Cherokee Nation before '68? A He was not living where he now does before that.

Q How do you know that he was not living where he is now before that time? A Well I was over the prairie frequently and did not see him until about that time.

Q What kind of a country was it around there? A How do you mean?

Q Was it isolated and grown up with brush and timber of sort there lots of settlements around there? A Well there were only a few people living around in that part of the country then.

Q Was it woods? A No sir he lived out on the edge of the prairie like

Q How far did you say you were living from where he does at the time you first saw him? A About a mile and a half.

Q Then you say you moved to another place? A Yes sir it was about two miles from his place.

Q Do you still live there at that place? A Yes sir.

Q Does he still live at the same place that you first saw him at?

A Yes sir.

Q How far long have you been living at the place you now live?

A 25 years or more, yes it has been longer than that.

WALTER A. WEST, called and sworn by Commissioner G. R. Breckinridge, testified as follows on the part of the Cherokee Nation:
(Examined by Commissioner Breckinridge.)

Q What is your name? A Walter A. West.

Q How old are you? A 68.

Q What is your postoffice? A Spavinaw.

Q How long have you lived in the Cherokee Nation? A All my life.

By W. W. Hastings:

Q Mr. West, where did you live the first few years after the war?

A Over here on the Military Road in Delaware District.

Q Do you know Joe Lynche, the applicant here? A Yes sir.

Q Do you know where he lives? A Yes sir.

Q How far did you live from him at any time? A Well when he first came here after the war he lived two miles from me.

Q When did he settle there? A He came there in the spring of '68 to the best of my recollection.

Q Are you positive that he was not there before the year '68?

A No he was not there.

Q How far did you live from him? A Two miles.

Q How long had you lived there? A I moved there in the latter part of '66; during the first part of '66 I lived in close to Meekohe and then I lived near Fort Scott, Kansas and then I came down here and made a place and lived on it until in '68 and sold it to him and then moved to where I am now living.

Q Then in '67 and '68 you were living near the old Military road and near where this man lives? A Yes sir up to November '68.

Q Where did this man first come to after the war, to the place where he now lives? A I saw him on the old military road and he said that he had come from Kansas, and he settled near there and made a place; I could see it from my house, it was just in sight. It was close to what is now Wipe place.

Q And you say that was in the spring of '68? A Yes sir that was in the spring of '68.

Q How long was it from the time you saw him on the old military road until he settled on this place? A That same spring that I saw him on the military road coming from Kansas.

By A. S. McRea:

Q Mr. West, how long have you known Joe Lynche? A I knew him before the war when he was a little boy called Buzzard.

Q Where did he go to during the war? A I don't know.

Q Did he leave the Nation during the war? A I don't know except that he told me that he went to Kansas.

Q When did he leave the Cherokee Nation to go to Kansas if you know? A I don't know.

Q When did he return? A In '68.

Q How do you know that he returned in '68? A He came by my place and said he had come from Kansas.

Q How was he traveling? A In wagons of course, there was no railroads through here then.

Q Who was with him when you first saw him? A He was supposed to have his family with him.

Q What family? A Wife and child is all that I saw.

Q Where did he go to then? A Cross the river where he said he was going over among his acquaintances and relations and then he come back on this side and made him a place.

Q When did he locate his present place, where he now lives? A In the same year, '68.

Q Can't you possibly be mistaken? A I can possibly be mistaken, but that is my judgment.

Q How long have you lived in the neighborhood where you are now living? A Ever since November 1868.

Q Do you know anything about the character and nature of that country before '68? A Yes sir.

Q What was the condition of it, open land or wood? Was it well filled up with settlements? A It was not as thickly settled as it is now; there was some thick woods down in the bottom.

Q Was it a wild sort of country? A Well I guess you might call it sort of wild, there was lots of game in around there.

Q Are you positive that he was not located in around there before '88? A I did not see him until that time in '88.

Q Is it not possible that you might not have seen him around there and him yet be living there? A Well I don't hardly think it is for I was around through there pretty much hunting deer and would have run across him.

Q Is it possible that if Joe Lynch had been a deer that you would not have seen him there at that time on account of the isolated sort of country it was? A No sir not if I had had a winchester with me it is not likely that he could have got away for I was pretty good at killing deer then days.

Q Is it not possible that he could have come back to the Cherokee Nation from Kansas before '88 and you not have seen him? A Yes it is, but the first time that I saw him was there on the old Military road coming by my place from Kansas, as he said, and that was in the spring of '88. He could not have come by there and settled where he now lives without my having seen him.

Q You don't know of your own knowledge when he did come back to the Nation? A I know that he did not come to where he now lives until in '88.

By the Commission:

Q You are not living in the same neighborhood now that you were when Joe Lynch come back? A No sir, I live six miles from him now and when he come back I lived two miles from him.

Q I understood you to say that when he come back the first time and settled that you were living two miles from where he settled?

A Yes sir.

Q That was within two miles of there he settled then and also where he now lives? A Yes sir.

Q When did you begin living on that place yourself - the one you were living on when you first saw the applicant here? A In the latter part of '86.

Q And you lived there I believe you stated, until the latter part of '89? A Yes sir until in November '88.

By A. S. McRea:

Q Is it not true that you never came to this particular place where you are living now until in '88? A I went there in November 1889.

Q I was speaking of the place where you lived before coming to the place you now live at? A I went there in '86 and made it my home and raised crops there until I sold it to Nip and moved away in '89.

JOE LYNCH, the applicant, recalled and examined by A. S. McRea:

Q Are you acquainted with Mr. Thompson who has just testified for the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life, ever since I was big enough.

Q Did you see him in '88 when you came to the Territory where you are now living? A No sir, I came by myself on horseback that time and never seed him.

Q When did you first see these witnesses? A Must have been in '87 that I seed him.

Q Where was it that you saw Mr. Thompson and Mr. West in '87?

A I saw Mr. West across the river.

Q And not at the present place where you are now living? A No sir when I come down there I never seed nobody.

Q When you brought your wife and family in a wagon did you see Mr. West as he swears you did? A No sir I never.

Q Then he did not see your family and you? A No sir.

Q If you had seen him you would have had some recollection of it would you not? A Yes sir.

Q How long has Mr. West lived in the neighborhood where he now lives - did he live two miles from you when you first settled there?

A No sir he never lived there when I come there, he come and got a place close by there and lived there after that.

Q When was that? A In '67, when I was living there.

Q What time of the year, in January or in December or in the summer or when? A Long in March of '67.

Q Did you know Mr. West before the war? A Yes sir.

Q If you had met him in '68 you would have some recollection of it would you not? A Yes sir course I would.

Q Is the statement of Mr. West that he saw you passing his house on the old Military road with your family in a wagon in the spring of '68 true? A No sir that is not true.

By the Cherokee Nation, W. W. Hastings:

Q Mr. West was living within a short distance of you when you located there? A He was on a place there three or so miles from me, he was on the old Military road and I was near Grand river.

By A. S. McRea:

Q When did your permanent residence begin down there? A It commenced long in the winter when I commenced making my field.

Q In the winter of '66? A Yes sir.

By Com'r Breckinridge: The applicant applies for the enrollment of himself, his wife and six children; it is developed in the course of the inquiry that one of the children for whom he applies is married and his application is reduced to five children. It seems that the applicant was a slave in the Cherokee Nation and of a Cherokee citizen prior to, and at the breaking out of the war between the United States and the Confederacy. He appears to have enlisted in the United States army and to have gone to the state of Kansas, from which state he returned after the war. The applicant is not identified on the roll of 1880 or upon that of 1896, or upon the Burns-Clifton roll, he is identified on the Wallace roll. He married in the state of Kansas, and in his first testimony states that he there lived until after the birth of his first child; that his wife had gone to the State of Kansas from the Cherokee Nation during the war, that she remained there four years prior to their marriage and that they returned to the Cherokee Nation one year after their marriage. The testimony relating to the time when his wife went to the State of Kansas is not present at this moment, it having been taken by another stenographer, but that can be inquired into later. The applicant subsequently denied that any of his children were born in the state of Kansas, but it is averred by other witnesses, including one of his own, that when he returned to the Cherokee Nation he was accompanied by one child, and one of the witnesses affirms that he was accompanied by more than one child. Witnesses who lived in the neighborhood in which the applicant located, according to his own testimony, immediately after his return, and at which spot he has continued to live ever since, affirm that he came there in the year 1868 with his family. The applicant affirms that he came there first on horseback in the fall of '66 and moved his family to this locality prior to the spring of '67. The testimony is very voluminous, but is referred to for fuller information in regard to its character. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card and the final decision of the Commission will be made known to him at his postoffice address. The applicant guesses his age at

60 years and that of his wife at 50 years! She appears to partake of all the rights and status enjoyed by himself and she will not be listed for enrollment as a Cherokee Freedman on a doubtful card; she being identified like the applicant on the Wallace roll, but not upon any other roll. The five children applied for, and who are said to be minors, and ~~xxx~~ whose applications are received at this time, are respectively Eliza, Cynthia Jane, Randolph, Ruth and Jack-son; these children range in age from 11 to 18 years, they are all said to be living now, there is no dispute as to their identity or of their being living at this time; they are not identified on any roll, but they will be listed for enrollment with their father and mother as Cherokee Freedmen upon a doubtful card. The final decision of the Commission in regard to all of these applicants will be made known to them through their father at his postoffice address.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the continuation of the above named cause from one o'clock P.M., May 21st, 1901, at Vinita, I.T., and that the above and foregoing is a full true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise.

Subscribed and sworn to before me this the 28th of May, 1901, at Chelsea, I.T.

Signed, C. R. Beckinridge,
Commissioner.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing and that the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 24th of August, 1901.

[Signature]

Commissioner.

FILED
MAY 28 1901

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DATE 05-28-2001 BY 60322 UCBAW/STP

THE FOLLOWING INFORMATION IS UNCLASSIFIED
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MAY 28 1901

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 22, 1901.

In the matter of the application of Cyrus Lynch for enrollment as a Cherokee Freedman; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

A. E. McRea, Attorney for Applicant.

- Q What is your name? A Cyrus Lynch.
Q How old are you? A 26.
Q What is your postoffice address? A Vinita.
Q What district do you live in? A Delaware.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Have you ever been recognized as a Cherokee Freedman by the Cherokee authorities? A Yes sir.
Q Does your name appear upon the authenticated roll of 1880? A No sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A On the Wallace Roll.
Q Where were you born? A In the Nation.
Q You always lived in the Cherokee Nation? A Yes sir.
Q Have you ever voted in the Cherokee Nation? A Yes sir.
Q You have voted at Cherokee elections? A Yes sir.
Q Do you own any land in the Cherokee Nation? A Yes sir.
Q What is your father's name? A Joe Lynch.
Q He living? A Yes sir.
Q What is your mother's name, Sophia? A Yes sir.
Q She living? A Yes sir.
Q Are you married? A ~~Yes sir~~ No sir.
Q You apply only for yourself? A Yes sir.
Q You say your name is on the Wallace Roll? A Yes sir.
Q Did you ever go by any other name besides Cyrus? A They may have it down Josiah.

Joe Lynch, being sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Joe Lynch.
Q How old are you? A 60 years old, I guess.
Q Do you know the applicant here, this man, Cyrus Lynch? A Yes sir.
Q Is he any relation to you? A He is my son.
Q Did you draw money for him on the Wallace Roll? A Yes sir.
Q His name aint on the roll? A I don't know, I drew for him.

The tribal rolls in the possession of the Commission have been examined and the applicant's name not found thereon.

L. B. Bell, Cherokee Attorney: Is that Sophia your present wife?

- A Yes sir.
Q Is he the son of her? A Yes sir.
Q Have you had more wives than one? A No sir, that is all.
Q Brought her with you, did you? A Yes sir.

Commissioner: Was Cyrus Lynch born in the Cherokee Nation? A Yes sir.

Q Always lived in the Cherokee Nation? A Yes sir.

Q Does he live with you now? A Yes sir.

L. B. Bell: Do you remember you forgot one of your children when you were before that Wallace Roll? A I heard them say so, one of them got left.

Cyrus Lynch applies for the enrollment of himself as a Cherokee Freedman; his name cannot be found upon any of the rolls in the possession of the Commission. He swears he is the child of Joseph and Sophia Lynch, and the said Joseph, his father, is enrolled as a Cherokee Freedman by this Commission on B Card No. 378, and the testimony taken in the case of the application of said Joseph Lynch will be referred to and made a part of the record in the case now at bar, and a copy of the same will be filed with the case now being taken. Applicant makes satisfactory proof as to residence, and

A. C. L.

will be listed for enrollment as a Cherokee Freedman on a doubtful card, awaiting further consideration of the Commission. When they arrive at a conclusion in his case, he will by so notified by mail of the result.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 28th day of May, 1901.

E. J. Doherty
Commissioner
Commissioner.

off the beach at the ocean.

1. The first step is to identify the problem. In this case, the problem is that the company is not meeting its sales targets. This could be due to a variety of factors, such as a lack of marketing, poor timing of the product launch, or a change in consumer behavior.

the second species found in the same area.

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific information required.

A. C. MOORE: HOW VERY HONOR, I WISH TO TRY TO DO SOMETHING

as the Nation will let Diogenes pass, or that Robinson Crusoe should be left to starve. We don't wish to have our chief justice be obliged to examine in connection with this argument, the idea

11. Conclusão: As variáveis afetam significativamente a produtividade.

THE

THE UNIVERSITY OF CHICAGO

Mr. Deanebolt: I've not given him any more of them. I've been in the office since the 1st of the month.

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific information required.

1. How long have you known him in the capacities mentioned above?
2. How long have you known him in the capacities mentioned above?

[illegible]

fields, but I won't let you take them away from me.

— *John F. Kennedy*

1904

34
9

Continued

File with Cherokee Freedman: D-385, Cyrus Lynch.

Department of the Interior
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1901.

In the matter of the application of Joe Lynch et al. for enrollment as Cherokee Freedmen.

Testimony introduced by Cherokee Nation.

Appearances:

A. S. McRea, attorney for the applicants.
J. S. Davenport, of counsel for Cherokee Nation.

ROSS CRAVENS, being duly sworn and examined by commissioner
~~XXXXXXXXXXXXXXXXXXXX~~ Breckinridge, testified as follows:

Q What is your name? A. Ross Cravens.

Q How old are you? A. I am about 48.

Q What is your postoffice? A. Vinita.

A. S. McRea: In view of the fact that the Cherokee Nation has already offered rebuttal testimony in the Joe Lynch matter, I ask that they state in advance what material fact they wish to bring out, whether it is on new matter, or what. I certainly object to any testimony unless it is upon some new matter that they wish to bring out or develop.

Mr. Davenport: We will state, in introducing testimony, unless the record shows that we have closed upon the questions of disproving allegations of the applicant which he has attempted to prove, that is, of the ownership, and his return to the Cherokee Nation within the time provided by the treaty, that we will still introduce testimony. It may be possible the record shows we closed; of course if it does I agree with him, but if it does not show that fact, we are still on our branch of it.

Commissioner: Can the attorney for the applicant cite anything in the record in the name of an agreement or understanding that the case has been closed.

A. S. McRea: That was my understanding.

Commissioner: Can you cite anything in the record to that effect?

A. S. McRea: Except to this extent, the son, in the person of Mr. Len Lynch, of the owner of the applicant, testified as to the ownership, and he also gave testimony as to the return, and naturally the presumption would be that the testimony on the part of the Cherokee Nation was closed.

Commissioner: What do you propose to prove by these witnesses?

Mr. Davenport: That he did not qualify within the time provided by the treaty, and that he has not resided here continuously since then.

Commissioner: The Commission is compelled to pursue a very liberal course in regard to these cases, though it is aware of them being in some respects very trying to counsel on both sides, and it is also very trying to the Commission. The law under which the Commission operates seems to require, for a practical discharge of the obligations imposed, rather more latitude than is usually allowed, and the objection of counsel for the applicant is noted in the record. At the same time, however, in this case the testimony will be taken into consideration, in connection with the objection, by the full Commission. The proceedings and requirements of the Department are very liberal towards applicants; at the same time they regard that the record is in some instances being unnecessarily enlarged. You can proceed with the witness.

Mr. Davenport: How long have you lived in the Cherokee Nation?

A Oh I have lived in it off and on ever since the close of the war.

Q Did you ever live in Kansas? A Yes, I lived in Kansas.

Q Live in Iola, Kansas? A Lived in Iola about 12 or 13 years.

Q About what years did you live in Iola? A I lived there in '83 or '84, '88, along in there, different years, I was in and out, that was my home when I was around in there; I lived in different parts of Kansas.

Q Do you know the applicant, Joe Lynch, in this case? A Yes, I have seen him.

Q Do you know where he lives now? A Down here on Grand River not far from Island Ford.

Q Did he ever go by any other name, if you know? A Some calls him Joe Buzzard and some Joe Lynch.

Q When did you first get acquainted with the applicant? A When he lived in Iola, Kansas.

Q When was that? A That was along, but it must have been 13 years since I first knew him, or close onto that.

Q When was the last time you knew him living in Iola, Kansas?

A I can't tell you the exact time when I did see him because --

Q Where did you first get acquainted with him? A In Iola, Kansas.

Q When was that with reference to the close of the war? A Not long after the close of the war.

Q Did he have a family? A Yes, he had a wife, I don't remember now how many children he had.

Q What was his wife's name? A Some calls her Toon and some calls her Sophia, she answers to either one of them names.

Q Was his family living at Iola when you first got acquainted with him? A Yes, sir.

Q How long did they live there? A Oh, they lived there seven or eight years or more, he used to work for Dan Harvelly cutting wood, and the Davis boys.

Q You got acquainted with him in Iola, then, after just after the war? A Yes.

Q And he lived there to the best of your knowledge about how many years? A He must have been there eight or nine years, somewhere along there, six or seven, I never kept no count of it before he left there.

Q Do you know anything about his children, did he have any? A I have seen his children, but I never took no particular observation of them, I seen them all.

Q Did his family live anywhere close to you? A Right close, his wife used to stay in the house with my wife.

Q Where was he? A He was working, chopping saw-logs and working around down there.

A. S. McRea: What is your occupation? A All 'round man, no particular work, any line there is a dollar or five cents in, any man got a job of work, don't follow any one certain thing.

Q How long after the war was it that you first became acquainted with the applicant, Joe Lynch? A I don't know the exact time, but I know I met him in town there for a number of years, right around that town, I don't know when he left.

Q You don't know as regards -- you didn't know him in the year 1866? A I wouldn't say for certain, I expect I did but I will not say for certain.

Q Do you know anything about his ownership? A No, sir, don't know that.

Q His going out of the Cherokee Nation during the war, you know anything about that? A I know he came up there to Kansas.

Q When did he remove there? A I don't know exactly when he came, he came with old Uncle Mose Grubbs and Jesse Barber and them.

Q When was that? A That was right after the war, or time of the war, close onto that, right along there near the time they raided out of here.

Q Well, when did he return? A I don't know when he returned.
Q How long before the war was that? A Before the war, it wasn't before at all.

Q It was after the war? A Yes, sir, he wasn't up there before the war.

Q You don't know where he went to before the war? A No, sir.

Q How long did you live in Kansas? A I have been in and out there ever since the close of the war, I came to Iola, up here to Chetopa, Kansas, when the first house was ever built.

Q I will ask you if you are a citizen of the Cherokee Nation?

A I am a married man here, I married into citizenship here.

Q Just answer my question, yes or no? A I have never made no claim, no application for any claim.

Q And you have no particular calling for a living? A I do anything that I can make an honest living at.

Q Mention some of the things you do? A Haul, clean up, do anything, cut wood, anything in general.

Q How long do you work at any one particular work? A Just as long as that job is done, then I look for another.

Q What do you realize out of these jobs? A Whatever I can get out of them, and when that is done I am looking for another one.

Q How long have you been married? A I have been married twelve years, a little more.

Q To whom were you married? A I was married to Louisa Ross.

Q And you know Joe Buzzard? A Yes, I have been knowing him right around here for a number of years.

Q How long have you known him right around here? A I have known him in and out I think about 20 years when I first been in and out, I have seen him at different places.

Q Well now how long have you known him in and out in Kansas? A I told you how long, I told you he lived there but I don't know when he left there.

Q What part of that in and out was in Kansas? A I must have known him seven or eight years right around Iola there and maybe longer.

Q That was since the war? A Yes, he lived there.

Q Didn't you testify a while ago that you have been knowing him for 25 years? A I did, I expect I have known him longer than that, I didn't say positive, I expect I have knowed him longer than that in my rounds, I didn't stay right around him all the time.

Q 25 years of that time you have known him in the Cherokee Nation?

A I didn't say positive I have known him that long right in one place, but I can say positively I have knowed him right here in the Cherokee Nation for 15 or 20 years.

Q How long did you know your wife before you married? A I knowed her about three or four years.

Q And you been married to her twelve years? A Yes, maybe longer

Q Where did you first meet her? A In Iola, Kansas.

Q You married her in Kansas? A Yes, sir.

Q Then when did you move to the Cherokee Nation with her? A Well when I first come down here with her, to the best of my knowledge, which I can prove by facts, little Ike Martin was a boy about that high.

Q I don't know him, tell about how many years? A That must be close onto 25 or 30 years, longer I expect, little Ike I expect is 25 or 30, I used to know him, I used to come here and hire a horse and buggy and he take me around over the Nation.

Q You knew your wife four years before you married? A I expect I knew her longer than that.

Q Come down to the fact of it? A I haven't got any specified time how long I knowed her.

Q I want to ask you the question? A Well I have done answered that.

Q Now you say you knew your wife four years before you married her?

A I expect I did and maybe longer.

Well how much longer? A I didn't say how long.

- Q You married her in Kansas? A Yes, sir.
- Q Stayed there about 12 years with her? A Yes, sir, I stayed in different parts of Kansas.
- Q And came to the Cherokee Nation with her? A Yes, sir.
- Q Now how long have you lived in the Cherokee Nation with her?
- A Right here in this town, I have been permanent in this town, about five years, permanent.
- Q With you and your wife? A Yes, sir.
- Q You said now that you knew him in all 35 years? A Knew who for 35 years?
- Q Your wife, knew her for 35 years? A I am just telling the time and different places I have lived.
- Q Didn't you tell you have known your wife altogether 35 years?
- A Maybe longer.
- Q And yet you knew her four years before you married her?
- A I can't give you any positive time about that.
- Q Lived with her 12 years in Kansas? A I can't give you any positive time, I lived with her about 12 years, I lived with her 12 years, she has been dead now about nine months, altogether will make about 12 years.
- Q You lived with her 12 years in Kansas? A I didn't say I lived with her that long in Kansas, I say I lived, I expect I have lived with her that long.
- Q The fact of the matter is you don't know anything about any of it?
- A I know anybody I see, if I see you and anybody ask me if I see you I can tell them I see you.
- Q Do you swear this Joe Lynch is the same one lived in Kansas, Iowa Kansas, 40 years ago? A I didn't say 40, 30 he lived there, and I can prove by dozens of people.
- Q How long? A I didn't tell you how long.
- Q How long did you say? A I didn't say but I tell you he lived there.
- Q How long did he live there? A I told you he lived there about seven or eight years around about the country and when he moved I don't know, it aint no use for him to say he didn't live there.
- Q We don't propose to argue the question. A Well you talked like he didn't live there; he lived right there.
- Q Now I want to go back with reference to the number of years you lived with your wife? A You needn't go back, I have told you all the reference you will get out of that, I told you that now, you are just losing time, I am not telling you the positive date about how long I lived, but I tell you what I can do, I have the papers down in my trunk will tell the dates, they tells you the dates, they are recorded and you can't dispute them.
- Q Now according to your estimate you lived with and known your wife 16 years: is that right? A You can make it as you please, I have give it now according to my best knowledge, I kept no record of it.
- Q In other words, you just came here to swear against Lynch? A I don't have it to do, I wouldn't lie for you if you were my daddy.
- Q Now didn't you just come here to swear against Joe Lynch? A No, sir I haven't got nothing against the man, not a thing sir, but I don't propose to tell a lie for nobody, a man can't hire me to do that; no, sir; if I am acquainted with a man and a man ask me if I know him --
- Q Well how many children did Joe have in Kansas? A Well I know one time me and my wife was down there, and I couldn't count them, says, Toos, how many children have you got for Lord sakes, and she says, Mr. Gravens, you see them running around here like quails, count them, and I couldn't count them.
- Q How many did you count? A I counted eleven or twelve, but I understand that he was the father of 22, I don't know it by the facts,

the last count he had 22 I think what his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Cravens, how long have you known Joe Lynch, all told?

A I can't tell you exactly, all told, but you ask me how long did I know him and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out ever since the close of the war.

Mr. Davenport: Did you have any neighbors up there at Iola, Kansas, do you remember the names of any that know about Joe being there?

A Yes, there is Dr. Charteen, Dan Harvelly, Bill Davis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably here, or their representatives.

A. S. McRea: Now your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedman cases D-383, D-384, D-385, D-386, D-387, D-429, D-430, and D-233.

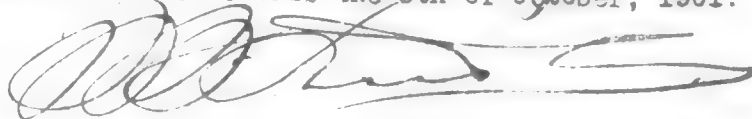
Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedman D-376.

Note: Copy of testimony also should be filed in case of Robert Foster, D-522, and in D-270, as to children of Riley Curls and Nancy Curls.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 8th of October, 1901.



Commissioner.

27-105-385

FILED
DEC 23 1904
COMMISSION TO FIVE TRIBES

(C O P Y)

Cherokee F D-376.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MURKOGHE, I. T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of JOE LYNCH ET AL., as Cherokee freedmen.

APPEARANCES:

Applicant appears in person and by attorney, A. S. McKee.
Cherokee Nation by its representatives, W. W. Hastings
and L. B. Bell.

SIMON LYNCH, being first duly sworn, testified as follows:

BY MR. MCKEE:

Q What is your name? A Simon Lynch.

Q What is your age? A 74.

Q What is your post office? A Spavinaw.

Q Are you a recognized citizen of the Cherokee Nation? A I don't
know, I guess I am, I hardly know.

Q Does your name appear upon the authenticated roll of 1880? A I
reckon so, I don't know.

Q You are an applicant for citizenship in the Cherokee Nation, are
you not? A Yes sir.

Q Are you acquainted with Joe Lynch, the applicant who made appli-
cation for enrollment as a citizen of the Cherokee Nation on
May 21, 1901? A Yes sir I knew him all his life pretty near.

BY MR. HASTINGS:

Comes now the representatives of the Cherokee Nation and asks
permission to interrogate this witness as to his competency to
testify.

BY MR. HASTINGS to witness:

Q Your name is Simon Lynch? A Yes sir.

Q You live in Saline District? A Yes sir.

Q You have lived there since the war? A Yes sir ever since.

Q Are you the same Simon Lynch that was convicted of the larceny
of some hogs? A Yes sir, and I was not there when the hogs
were stolen.

Q You were sent to the Cherokee jail at Tahlequah, Indian Terri-
tory? A Yes sir.

BY MR. MCKEE:

Comes now the attorney for the applicant and objects to the

motive of examination relative to the competency of the witness for the reason that the witness having been convicted of some crime committed in the Cherokee Nation under the Tribal Government is no test of witnesses competency to give any testimony in cases of this character, in view of the fact that under the laws of Congress enacted and put in force in the Indian Territory, the witness herein is now declared under and by virtue of said laws a United States citizen clothed with all the rights and privileges of other citizens of the United States.

BY THE COMMISSION:
Objection noted.

BY MR. HASTINGS:

- Q You were convicted of stealing hogs from Charles Thompson, who was afterwards Chief of the Cherokee Nation? A That is what it was said.
- Q That was the Cherokee penitentiary at that time at Tahlequah?
- A I don't know what it was.

BY MR. McNEA:

- Q How long have you known Joe Lynch? A Ever since he was a little boy.
- Q Was he a slave of a Cherokee citizen of Cherokee blood? A Yes sir.
- Q Do you know whether or not of your own knowledge that Joe Lynch went out of the Cherokee Nation during the war of the rebellion?
- A Yes sir.
- Q Do you know to where he went? A No sir I don't know.
- Q Do you know when he returned back to the Cherokee Nation? A Yes sir.
- Q State when you first saw him in the Cherokee Nation after the war? A In the fall of '66.
- Q At what place in the Cherokee Nation did you see him? A In the six mile bottom there at my house.
- Q You were then living in the Cherokee Nation? A Yes sir.
- Q Did you have any conversation with him? A Yes sir stayed all night with me.
- Q Did he state to you at that time for what purpose he returned to the Cherokee Nation? A Coming to look out a home.
- Q How long did he remain? A About three days.
- Q Do you know where he went after that? A Said he was going back to Kansas.
- Q When was the next time you saw him in the Cherokee Nation?
- A About the first of February, he moved down.
- Q Of the next year? A Yes sir.
- Q Of 1867 was it? A Yes sir.
- Q Did he bring his family out that time? A Yes sir.
- Q You have known him to reside continuously in the Cherokee Nation ever since? A Never anywhere else that I know of.
- Q How many persons did his family consist of at the time he returned in February, 1867? A One besides him and his wife.

BY MR. HASTINGS:

- Q Where do you live now? A I live right there adjoining places to my old houses' place in Salina District.
- Q Were you living there at the time Joe Lynch came to your house as you have stated the first time? A No sir.
- Q Where were you living at that time? A In six mile bottom on a place of George Chapman.
- Q Then Joe never moved his family down here in 1866? A No sir.

- Q And if any of these witnesses testify to that effect they testify to what is not true? A I don't know what they testify. He didn't move until I moved there in Saline District to my house.
- Q When did you move to your house? A He moved to my house.
- Q When did you move to your house? A In 1867.
- Q What time in 1867? A February first.
- Q Of 1867? A Yes sir.
- Q How long had you been over there before he come back? A I had been there about two months.
- Q Then it was about two months after you moved over to your house before Joe Lynch brought his family? A Yes sir.
- Q And you moved over there about the first of February, 1867?
- A Yes sir.
- Q Joe's first wife was related to you wasn't she? A He never had but one.
- Q Was that wife related to Joe? A Joe's sister.
- Q Why didn't you testify for Joe in this case up at Vinita? A He didn't want me, didn't call on me.
- Q Did you ever testify for him before? A No sir.
- Q You never testified for him before the Kern-Clifton roll? A No.
- Q Nor before the Wallace court? A No sir.
- Q Where did you make a crop in the year 1866? A Up on Cabin Creek.
- Q On which side of Grand River? A On the west side.
- Q When did you move there? A In the summer.
- Q Summer of 1866? A Yes sir.
- Q Then where did you go? A I come down there close to the old Military road at Mrs. Kell's old place.
- Q Then where? A To the six mile bottom where George Clark let me have a place.
- Q What time did you move? A In the fall.
- Q Of 1866? A Yes sir.
- Q What year is this? A I don't know.
- Q What year was it that Wallace made his roll of freedmen? A I don't know, I can't keep no time of anything that way.
- Q What year did Kern-Clifton make a roll? A I don't know.
- Q Don't know any of these years? A No sir.
- Q What kind of a team was Joe driving when he come down to your place? A An old sorrel mare and one bay.
- Q What road did he come in coming to your place? A All roads, he started from Sulphur Springs and come right down over the mountain that is as far as I can tell you he come.
- Q What Sulphur Springs was that? A The Bob Daniels' old place.
- Q On which side of the river was Bob Daniels' place? A West side.
- Q Did he come by Watt West's place? A No sir.
- Q How far did Watt West live from the road? A He did live on the side of the road when he come there.
- Q Where did Joe Lynch settle when he first come to your house in '67 with his family? A Right where he is now.
- Q That is the first place he ever settled? A Yes sir.
- Q And he has been living right there ever since? A Yes sir.
- Q How long did he stay at your house before he went and settled this place where he resides now? A He stayed there about two months I guess to the best of my knowledge.
- Q Then he settled this place in the early summer? A No sir.
- Q Or spring? A No sir, it was too late to make a crop.
- Q Then he come down there too late in the spring of '67 to make a crop? A He worked at my place a little.
- Q And went from your place to where he lives now? A Yes sir.
- Q Built him a house? A Yes sir.
- Q Did nobody come with him besides his family? A I don't recollect now.
- Q What is his oldest child's name? A Hester.

- Q And she was with him? A Yes sir.
Q Didn't have any other children at that time? A No sir.
Q You say you don't remember any other colored people coming with him? A No sir it has been so long I don't recollect.
Q You used to have his sister for your wife? A I have got her yet when I am at home.

BY MR. McKEA:

- Q Did you ever vote in the Cherokee Nation? A Yes sir might near every election.
Q Have you voted in the Cherokee Nation since the time you were convicted of this offense of which Mr. Hastings speaks? A Yes sir every time since never voted when I was a slave, voted since.
Q You have enjoyed all the rights and privileges of a Cherokee citizen ever since 1866, have you? A Yes sir.
Q You speak of living on a place that you got from Mr. George Clark in 1866? A Yes sir.
Q He recollects that does he not? A I guess so.
Q How far do you live from that place that you rented from Mr. Clark with reference to the place you live on now? A About two and a half miles.

BY THE COMMISSION:

- Q Where did you go during the war? A Kansas.
Q And when was it you returned to the Cherokee Nation? A February, 1866.
Q That is when you came there, February, 1866? A Yes sir.
Q How long had you been here did you say, until you saw Joe Lynch?
A He came in the fall after I came here, yes sir, horse back.
Q Was it cold weather then? A No sir not right cold, it was in the fall.
Q He came to your place? A Yes sir came to Mr. Park's place where I was living.
Q How long did he remain there Mr. Lynch. A Until spring.
Q I am talking about him? A He stayed there about three days.
Q Just on a visit? A He come down to look out a location.
Q And then where did he go if you know? A He went back to Kansas, said he was.
Q Did you first move from the George Clark place about the first day of February? A Yes sir.
Q And you answered Mr. Hastings that you had been there about two months did you not when you saw Joe Lynch? A When he came back from Kansas I was living at George Clark's place.
Q And the next time where were you living? A Where I live now.
Q How long had you been there when you saw Joe Lynch the second time? A Two or three months.
Q When did you go to where you are living now? A February I moved over there the first of the spring.
Q February, 1867? A Yes sir.
Q That is the story you want to tell the Commission is it? A That is what I have told.
Q I have not asked you have I? A No sir I guess not.
Q You want to tell the Commission that you moved over to where you are living now about the first of February, and you had been living there about two or three months when you saw Joe Lynch and his family? A Yes sir when they moved down.
Q When he came to where you are now living in the spring of 1867 who did he have with him? A His wife.
Q Who else? A His child.
Q Wife and one child? A Yes sir.

- Q That is the child Hester? A Yes sir.
- Q So far as you know Hester and her mother had not been in the Cherokee Nation after they had left during the rebellion until you saw them where you now live? A That is right so far as I know.
- Q How was it that Joe Lynch came down and picked out a place? A That is what he said.
- Q Did he make any improvements or locate him a claim so far as you know? A Yes sir right where he lives.
- Q Did he improve it? A Put some logs around it, made a foundation of logs around it.
- Q Did he do that in three days time? A Yes sir I went and helped him.
- Q Was that on the prairie? A Yes sir.
- Q Was there any timber close there? A Yes sir, right south of it.

BY MR. McNEAL:

- Q Do you remember that you stated in your examination in chief, when I asked you the question, when was the first time that you saw Joe Lynch in the Cherokee Nation, your answer was in the fall of '66, is that correct? A Yes sir.
- Q Then I asked you when was the next time you saw him, and your answer was about the first of February, 1867?
- Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to the leading questions that are being asked by the Attorney for the applicant.
- Commissioner: Objected noted.

- Q Did you make that statement? A Yes sir.
- Q When was the first time you saw Joe Lynch in the Cherokee Nation after the war? A Fall of '66.
- Q How long did he remain in the Cherokee Nation at that time? A About three days at my place.
- Q Did you have any conversation with him? A I talked with him all the time he stayed there.
- Q What did he say if anything with reference to coming back to establish his citizenship in the Cherokee Nation? A Said he came back home to located out a place.
- Q Did he locate a place at that time? A Yes sir.
- Q Do you know where? A Yes sir.
- Q Is it the present place he lives on? A Yes sir.
- Q When was the next time you saw him in the Cherokee Nation after the war? A In the spring, I don't know just what date.
- Q Where were you living when he returned to the Cherokee Nation the second time? A Right where I live now.
- Q How long had you been living where you live now before Joe came back? A Not long, just a little while.
- Q Did he bring his family with him at that time? A Yes sir.
- Q You know what month it was that he brought his family to where you now live? A I don't know exactly.
- Q How long did he stay with you at that time? A He stayed until he built him a cabin, there where he lives now.
- Q That was in '67? A Yes sir.

BY MR. HASTINGS:

- Q You say that was about two or three months after you moved there from the George Clark place? A He stayed there two or three months with me.

BY MR. MORRIS:

- Q It was two or three months before he moved to where he lives now?
 A Yes sir.
 Q And you stated that you hadn't been where you live now very long until he came there? A Yes sir.

BY MR. HASTINGS:

- Q You have testified that you moved over to this place from the George Clark place about sometime in February, 1867? A Yes sir.
 Q You have testified that you were over there about two or three months when Joe Lynch came back the second time with his family?
 A Yes sir, I was.

BY MR. BELL:

- Q Was not there no other colored people living around there?
 A Grap and Art.
 Q Did they come to see Buzzard? A Yes sir they lived at the old beases place, got it from Len Lynch.

BY MR. HASTINGS:

- Q You are positive that this child Hester was born in Kansas, and that they brought it down here with them? A Yes sir.
 Q About how old was Hester when they came down? A I don't know.
 Q About how old? A I can't tell she was a child.
 Q Running around, walking and talking? A Sucking I believe.
 Q Was she a year old? A I can't tell how old she was, don't know that.

LEWIS LYNCH, being first duly sworn, testified as follows:

BY MR. MORRIS:

- Q What is your name? A Lewis Lynch.
 Q What is your age? A Near about 50.
 Q What is your post office address? A Spavinaw.
 Q Are you a recognized citizen of the Cherokee Nation? A Claim to be, yes sir.
 Q Is your name on the authenticated roll of 1880? A Yes sir.
 Q Are you acquainted with Joe Lynch? A Know him by the name of Joe Buzzard, yes sir.
 Q He is the same person present and an applicant for citizenship in the Cherokee Nation? A Yes sir.
 Q How long have you known him? A All my life.
 Q Did he belong to a citizen of Cherokee blood of the Cherokee Nation before the war? A Yes sir.
 Q To whom did he belong? A To Joe Lynch.
 Q Did he go out of the Cherokee Nation during the war of the rebellion? A Yes sir.
 Q Do you know to where he went? A To Kansas.
 Q Do you know when he returned back to the Cherokee Nation with reference to the Treaty? A They said it was in 1866, I was quite a boy and didn't keep records of the dates.
 Q Did you see him in the Cherokee Nation after the war? A Yes sir.
 Q What time after the war? A It was along in the winter.
 Q Of what year do you remember? A They say it was '66, I kept no records of the dates at all.
 Q Where did you see him in the Cherokee Nation? A At my father's.
 Q Who was your father? A Simon Lynch.

- Q The gentleman who has just testified? A Yes sir.
Q Were you present when Joe Lynch came to your father's house?
A Yes sir.
Q How did he come? A Horse back.
Q How long did he remain at your father's house? A Two or three days not longer.
Q Did he say anything with reference to coming down for the purpose of establishing his citizenship of the Cherokee Nation at that time? A I didn't hear him at that time.
Q Where did he go to after he left your father's house at that time? A The old folks said he went back to Kansas.
Q Did you see him in the Cherokee Nation after that? A Yes sir.
Q About how long after the first time you saw him? A It was along in the spring the next time.
Q Of the next year? A Yes sir.
Q Where did you see him then? A In Saline District.
Q At what place? A At my father's where we lived, we had moved out of Delaware District into Saline District.
Q Did he bring any one besides himself at that time? A He brought his family.
Q How many persons did it consist of at that time? A Two to my best knowledge, they were his wife and daughter.
Q Was it his present wife? A Yes sir.
Q Do you know the name of the daughter? A Hester.
Q Hester who? A Hester Foster now.
Q Did he at that time begin making preparation for a permanent location in the Cherokee Nation? A Yes sir the last time he came he did.
Q Where did he make that location? A In Delaware District.
Q The place where he now lives? A Yes sir.
Q And that was in the spring you say of '67? A Yes sir to the best of my knowledge, I don't know anything about the dates, but it was the next spring after I saw him first.
Q Where did he make his home while making preparation for the place? A With my father and mother.
Q How long did he stay there? A I disremember just how long.
Q But you do know that he moved from your father's place over to the place where he now lives? A Yes sir.
Q Have you known him to be continuously in the Cherokee Nation ever since that time? A Yes sir.
Q You are close neighbors are you not? A About two and a half miles.

BY MR. HASTINGS:

- Q Joe Lynch, the applicant, is an uncle of yours is he not? A Yes sir.
Q You never took the stand to testify for him before have you?
A No sir.
Q You don't know very much about this you saw? A No sir.
Q You only knew the dates they told you they were, that is all you are attempting to testify to? A Yes sir.
Q You knew what date Mr. Wallace made a roll of Cherokee freedmen?
A No sir.
Q Do you know when that big freedman payment was made? A Which one
Q The last one? A No sir, I don't.
Q You don't know when Kern-Clifton made a roll? A No sir.
Q What year were you married? A I don't know that.
Q Are you a married man? A Yes sir.
Q Got some children? A Yes sir.
Q What is the date of the birth of the first one, what year? A I don't know.

- Q You don't know no years do you? A No sir not particularly.
- Q You and your father and the attorney for the applicant talked over this case to what you were going to testify? A No sir.
- Q Never mentioned it? A No sir.
- Q Never said anything to Mr. McRea outside? A No sir.
- Q He never talked to you about what you knew about the case? A Yes sir, but not on the outside.
- Q Inside of the room then? A Yes sir, outside is outside, and inside is inside.
- Q He went over it with you and your father? A Yes sir.
- Q And your father told you about what he knew about it in your presence and you testified to the same thing? A No sir, I didn't.
- Q You don't know the year do you? A Which year.
- Q When you first saw Joe Lynch? A No sir, they claim it was in 1866.
- Q They claim it and that is all you know about it isn't it? A Yes sir.
- Q Where was you born? A In the Cherokee Nation.
- Q Where was you living when Joe Lynch moved his family down there? A In Saline District.
- Q On whose place? A Simon Lynch's place.
- Q Same place you are living now? A Same place he is living.
- Q He was living right there when he moved his family down where he is living now? A Yes sir.
- Q Are you sure he had one child? A That is all I remember.
- Q You remember that one? A Yes sir.
- Q If Joe Lynch swears that he didn't have that child, he is mistaken isn't he? A I suppose he is.
- Q Do you know he is? A Yes sir if he swears that he didn't have it when he came.
- Q About how old was Hester when they moved there? A I don't know.
- Q You remember they had a child, how big was it? A A good big child, large enough to be walking.
- Q Walking? A Walking, yes sir.
- Q Talking? A I don't know about that.
- Q Did he come the next time in a wagon? A Yes sir.
- Q Do you remember what kind of horses he had? A No sir.
- Q They didn't tell you yesterday about that sorrel team? A No sir.
- Q Didn't you hear your father say that? A No sir.
- Q Your father told you yesterday that he had moved from one place to another? A No sir.
- Q Didn't tell you that? A No sir, I knew that.
- Q But you don't know what year you moved? A No sir.
- Q You don't know anything about the years? A No sir.
- Q You don't know a single year in which a single one of your children were born do you? A Yes sir.
- Q What year was the first one born? A I couldn't say exactly.
- Q Then you don't know do you? A No I don't know that I could positively say now.
- Q You don't know what year only what they said when Joe Lynch come back & do you? A No sir.
- Q You don't know what year you moved to the place where your father lives now, only what you were told? A No sir.
- Q How long had you been living there when Joe come back? A Not quite a year we moved there in the winter and the next spring I saw Joe Lynch.
- Q Simon had been living where he lives now for about a year when Joe come back? A No sir not a year.
- Q About how long? A Moved over in the winter and I saw Joe the following spring.
- Q How long had your father been living there when Joe brought his family? A Might have been three or four months.
- Q Is that your best judgment? A Yes sir.

- Q Had you put in born? A No sir.
 Q Fixing to put in born? A Yes sir.
 Q Do you know what month your father moved there? A No sir.
 Q You don't know what year? A No sir.
 Q What year is this? A I don't know exactly.
 Q You don't know what year you were born in do you? A No sir.
 Q How many children have you? A Three.
 Q What year was the second one born in? A I don't know.

V. A. WEST, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A V. A. West.
 Q What is your age? A 63.
 Q What is your post office address? A Spavinaw.
 Q Are you a Cherokee citizen by blood? A Yes sir.
 Q Have you always lived, with the exception of the war, in the Cherokee Nation? A Yes sir.
 Q Is that in Saline District? A Yes sir.
 Q Were you in the army during the war? A Yes sir.
 Q Where did you settle first after the war? A My permanent house was on the road there, on the Military road north of Grand River there where I lived.
 Q When did you settle there? A About 1867, commenced it in '67 and finished it that winter, I commenced in the summer like getting out the lumber.
 Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
 Q Do you know where he now lives? A Yes sir, I presume I do, at the same place where he has lived, I haven't been at his house lately.
 Q You have been at his house? A Yes sir, I have been there often.
 Q It is claimed that he lives at the same place? A Yes sir.
 Q How far is that from where you formerly lived? A It is about two and a half miles or three miles, somewhere along there, I always called it about two miles.
 Q I will ask you if you know him when he lived there that near you? A Yes sir.
 Q When did he first come back to the Cherokee Nation after the war? A To the best of my recollection he came back in 1866.
 Q Were you living at this place you had made? A Yes sir.
 Q And you commenced that in 1867? A Yes sir.
 Q What time in '67 did you commence that place? A I commenced getting out the lumber along in the spring and summer and I lived in a tent on the same road about a quarter from that place.
 Q Were you living in the house when you saw this applicant? A Yes sir.
 Q Where was he going? A He said he was going from Kansas, coming there to make a home in the Cherokee Nation and he inquired at my house where Simon Lynch lived.
 Q Did you direct him to where Simon Lynch lived? A Yes sir, I told him Simon Lynch lived across the river somewhere about the old Lynch farm.
 Q Was Joe Lynch in a wagon? A Yes sir.
 Q Did he have the members of his family with him? A He had his wife and one child, as well as I remember.
 Q Do you remember what kind of a team he had? A He had just a common pony team.

- Q Was your House on this old Military road? A Yes sir right along the edge of the road.
- Q When did you get that house completed, was you moved into it?
- A I moved into it in the fall of 1867.
- Q And it was not until after that time that he come along in a wagon inquiring for Simon Lynch's? A No sir, in 1868.
- Q You think it was the next year? A Yes sir the next year, and may be the following.
- Q And it couldn't have been earlier than 1868? A No sir, nor later '68 is the year as well as I remember.
- Q Was any one else along with him in the wagon besides his family?
- A No sir.
- Q He said he was from Kansas, did he? A Yes sir.
- Q And he was inquiring the way to Simon Lynch's? A Yes sir.
- Q He didn't know then at that time where Simon lived? A No sir I reckon not by his inquiring.
- Q This same Simon that you have seen here as a witness in this case? A Yes sir the same Simon.

BY MR. MORRIS:

- Q You have testified in this case once before haven't you? A Yes sir.
- Q And you haven't any improvement to make by way of testimony on what you have already testified to? A No not that I know of.
- Q Do you know where Simon Lynch was living in 1866? A Across the river.
- Q He was in the Cherokee Nation in 1866 was he? A Yes sir.

BY MR. HASTINGS:

- Q Do you know of Simon Lynch's having been convicted of stealing hogs? A I have heard he was convicted.
- Q In the Cherokee courts? A Yes sir.
- Q Sent to the Cherokee penitentiary? A Yes sir.

JOE L. THOMPSON, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Joe L. Thompson.
- Q What is your age? A 66.
- Q What is your post office address? A Vinita.
- Q Are you a Cherokee citizen by blood? A Yes sir.
- Q Where do you live, you don't live in the town of Vinita do you?
- A 12 Miles south of Vinita.
- Q How far from Grand River? A About three miles.
- Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you remain in the Cherokee Nation during the war? A No sir.
- Q Where did you go, south? A Went to Texas.
- Q What year did you return after the war? A I came back in the winter of '67, I came to Fort Gibson.
- Q When did you land up there near where you live on Grand River?
- A In the spring of '66 I come to the place where I now live and made a crop, in the spring of '68 I moved on the Ardma place.
- Q Do you know where the applicant, Joe Lynch, now lives? A Yes sir
- Q How far does he live from you? A About three miles I guess.
- Q Was he living there when you come back? A No sir, not to the best of my recollection.
- Q Do you remember of his coming back there? A It was the best of my recollection, that he moved there to that place about 1869.

- Q You say he wasn't living there when you returned? A No sir.
 Q And you came back yourself in the early spring of 1868? A Yes sir.
 Q Was he living there when you came back in 1868? A If he was I didn't know it.
 Q What is your best judgment? A He was not living where he is living now.
 Q It is plain to him that he settled there the first place that he settled in the Cherokee Nation? A The best of my recollection is he never moved to the place where he lives until 1869.
 Q Was that the first you saw of him in the Cherokee Nation after the war? A Yes sir.
 Q Did you know him before the war? A Yes sir.
 Q Did you know his owner? A Yes sir his owner was my uncle.
 Q Where was you living in 1869 when you first saw this applicant? A On what was called the Arsona place.
 Q How far from Simon Lynch's? A About four or five miles the way you have to go I reckon.
 Q You feel positive that this applicant was not there when you first came back in 1868? A No sir there was no improvements there when I came back in 1868.
 Q Do you know Simon Lynch? A Yes sir.
 Q Do you know of his being convicted of stealing hogs in the Cherokee Nation? A No sir.
 Q You have heard of it? A If I did, I don't remember it.
 Q You live there in Tahlequah District? A Yes sir.

BY MR. McKEA:

- Q I understood you state that you did not return to the Cherokee Nation until sometime in 1867, is that right? A Yes sir.
 Q Where were you in '66? A I guess I was in Texas.
 Q If Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866 and his testimony is born out by Ed Lynch and Simon Lynch, are you prepared to say that that is not true? A I haven't said so.
 Q You would not say so would you? A I was not here in 1866.
 Q You have testified in this case before, haven't you? A I don't know, I guess so.
 Q And you are not now prepared to add nor detract anything from the statements you first made in the case, at this time are you?
 A No sir, I don't know that I am.

G. W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. WASTINGS:

- Q What is your name? A G. W. Clark.
 Q What is your post office address? A Vinita.
 Q Are you a Cherokee citizen by blood? A Yes sir.
 Q Were you in the Union army during the war? A Yes sir, I served nearly three years in the army.
 Q When was you married? A I was married on the 8th of June, 1868.
 Q Just after the war? A Yes sir, eight days after I was mustered out of the service.
 Q Where did you first settle down after the war? A Upon the river in the neighborhood of where I live now.
 Q Up in the north end of Salina? A Yes sir, it was Salina then but it is in Coconawaw now I think.

- Q That was just across the river from the north end of Salina?
A Yes sir, I lived on the west side of the river, I made a crop there in '66.
- Q Where did you make a crop in '67? A I moved in the fall of '66 along in December to another place about ten or twelve miles from there, the place where I was, to a place in Delaware District known as six mile bottom.
- Q Near the old Joe Lynch place? A Yes sir.
- Q On which side of the river? A On the same side, west side.
- Q That was in the fall of '67? A No sir, fall of '66.
- Q Where did you live in the year 1867? A I lived there four or five years.
- Q Continuously? A Yes sir.
- Q Did you know the applicant, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you know him before the war? A I saw him but I don't say that I was acquainted with him.
- Q You knew his owner? A Yes sir I knew old Uncle Joe Lynch.
- Q Was he a relative of yours? A No sir.
- Q Do you know where this applicant now lives? A Yes sir, I am well acquainted with the place, about two to two and a half miles from where I lived four or five years.
- Q You moved up there in the fall of '66? A Yes sir.
- Q And you lived there four or five years? A Yes sir, may be six.
- Q When did he move back to this place after the war? A The first I recollect of seeing him I seen him at old man Simon's place, old man Simon in the fall of '66 lived on my place in this six mile bottom, after I moved there I let him have some house and lived there that winter and early in the spring of '67 he moved to what is known as the old Joe Lynch bottom.
- Q You mean Simon? A Yes sir, I loaned him a yoke of steers, to do the breaking he did there.
- Q How long after you moved to this place was it before you saw Joe Lynch at Simon's? A I didn't see him there for a couple of years.
- Q How long was it after you moved to this place where you moved in '66 before Joe Lynch came there and make this improvement? A My recollection is that he didn't make this improvement the first year after I come there.
- Q You think the first time you saw Joe was at Simon's? A That is the first time I saw him.
- Q Where was Simon living then? A Where I located him on the east side of the river.
- Q That was on your place? A No sir.
- Q And you think that was to your best judgment, 1868? A It was 1868 or '69.
- Q And you owned the place where Joe Lynch afterwards built? A Yes sir.
- Q Were you acquainted with the country before he built there?
A Yes sir, that was on the road there where I did the most of my passing.
- Q Did you travel that road frequently? A Yes sir.
- Q About how far did Joe Lynch the applicant located from this road?
A He located on a little ridge about 150 or 200 yards from the road, it may have been more or less.
- Q The place could be seen easily from the road could it? A Yes sir.
- Q Nothing in the way? A He built his house there on the prairie.
- Q You know Simon Lynch, who has testified in this case? A Yes sir, I am well acquainted with him.

Q Do you know of his having been convicted up there in the Cherokee courts for stealing hogs? A I had moved away from there then, but I heard of it.

Mr. McRea: We object to hearsay.

Commission: Objection noted.

Q It was a common report was it? A He was convicted, no common report about it.

Q What official positions have you held, you have been a member of the Cherokee Senate and Cherokee Council a number of times?

A Yes sir I was in office 16 years, I have---

Q Also on the Circuit bench? A Yes sir, eight years.

Q Solicitor of Saline District? A Two years.

Q And you were in the Union army? A Yes sir, in the third regiment

Q And your best judgment is that Joe Lynch came back, in '68 or '69? A That is when I saw him.

Q And you were living there in that same neighborhood, and he located out there on a little prairie near the road that led to the store at which you traded, and where there was a black smith shop? A It was a big prairie, three or four miles across the neck of it, it reaches from there I expect to Chatopa. From my place back there is a woodland hilly place until you get down to where the house was, and there was a little prairie there where I lived but he lived on the main big prairie.

BY MR. HELL:

Q The place that you stayed up there in six mile bottom, was that that Dirsteater place? A It was known as the Jim Daniel's place before the war, I bought it from the estate.

Q How is that six mile bottom situated with reference to the river?

A The river bends around it.

Q The river is on three sides of it? A Yes sir.

Q How in getting from your house to this store you speak about, there was only the come road? A Yes sir just one road.

Q There would have been no way of getting to your store by a road except by taking another road that didn't go in that direction? A No sir it went north.

Q But you went from your house to the store? A Yes sir, nearly due west according to the section road.

Q That was the only road with a direct route to the store? A Yes sir.

Q That road passes then 150 or 200 yards of the place that Joe Lynch built? A Yes sir, and I think he is living there yet.

Q The McCary store was at the Kall place? A Yes sir.

Q It was the only trading point in that immediate neighborhood?

A Yes sir, the only one anywhere around there.

Q If Buzzard had this house built there in '67, you think you would have seen it? A I knew I would because there was a little circumstance there, me and Walker Daniels got after a bull right there where he built that house, and right over the swag there, there in running him up there, he ran past him and the bull killed his horse or mare, hooked his insides out.

Q That was in '67? A Yes sir,

Q There was no house there then? A No sir the first that was built was built this side of there. That was before he put that up on the left hand side of the road as you went, a colored fellow fellow by the name of Beny Daniels, and the next was the house that Joe lives in.

- Q Then there was no other houses therein that country right then?
A No sir, no other house, I made a claim right across the next ridge and I let Andy Frye have that.
Q Nobody living in there? A No sir.
Q Indians or nobody else? A Nobody at all.
Q And it was in '68 or '69 before you discovered Buzzard there in this house? A My opinion is he didn't build a house there in '69, and he stayed a year in the bottom before he built a house.

BY MR. MORRIS:

- Q When was the first time that you saw Joe Lynch in the Cherokee Nation after the war? A It was over at Simon's in '68 or '69, I think '69.
Q You are not positive as to which? A No sir.
Q Now where was he when you saw him at that time? A He was in and around Uncle Simon's there on the place, he come in there with a pony team, and had a wife and child.
Q Were you present when he came? A No sir.
Q That was what you heard? A There wasn't but a few people there and when a man dropped in the neighborhood we know he was a stranger, it wasn't settled like it is now, wasn't many people in the country.
Q Where was you living in the fall of '66? A I moved on this place that we were above referring to in that bottom east of where Joe Lynch built his place.
Q How far with reference to where Simon Lynch lived at that time in '66 on your place? A There were two houses on the place he occupied, one of the houses from the house I lived in right across the hill north, I expect it was 150 or 200 yards, one of the houses that he was in, that he kept one of his wives in. He kept another house, I will tell you about that. It was about a quarter of a mile south of the place and he kept his other wife there.
Q Are you prepared to dispute the statement made by Simon Lynch and Joe Lynch, that Joe Lynch came to Simon Lynch's place where he was living in the fall of '66 on horse back? A If he did I didn't see him.
Q He come have come though without your having seen him, couldn't he? A I guess he could have without my seeing him, by coming in the night and going away.
Q Answer yes or no? A He could have come, but I never seen him.
Q I understood you to say in your examination in chief that you had no special acquaintance with Joe Lynch before the war? A No sir that is right.
Q Then the first time that you ever seen him to know him was sometime in the year 1868 or '69, is that correct? A Yes sir.
Q He could have been in and around Simon's at the time he said without your knowing him in view of the fact that you had no acquaintance with him? A He couldn't have been around there very much because I watched everybody pretty close them times.
Q Sometimes? A All the time.
Q You had no acquaintance with his family? A No sir, the first time I saw his wife she was at Simon's and had a child, and then they had one regular every year.
Q You never testified before in this case? A No sir.
Q You knew all about the facts that you are testifying to now in 1901 and 1902, didn't you? A Yes sir, of course I would have, I come acquainted with them in '67 and '68.
Q You knew these fact at the time the applicant made his application for enrollment? A Yes sir.
Q And you were not called upon at that time to testify? A No sir.

- Q When was the first time that your attention was called to the fact that you would be required to testify in this case, Mr. Clark? A I don't know, think it has been more than three or four weeks ago that I received a notice from the Commission that I was summons here in this case, and it read like I had testified in the case, but I couldn't recollect that I had testified in the case. I was very well acquainted with this fellow. He was hard up and we furnished him milk all of the time, my wife and I, and she knew him better than I did, he carried milk from our house all the time, we treated him as well as we could.
- Q Do you know how long Joe had been at Simon Lynch's at the time you first saw him in '66 or '67? A No sir, I couldn't say the exact time, might have been a week or two or maybe longer.

BY MR. HASTINGS:

- Q I believe you stated that you people sort of kept a watch on the people who came into the country immediately after the war?
- A Yes sir.
- Q It was necessary in those days, was it not? A Yes sir, very necessary.
- Q And for that reason you know about everybody that came around in your neighborhood? A Yes sir I watched everybody.
- Q You know when you first saw Joe Lynch over at Simon's that he was a newcomer? A Yes sir, there was but a few of us and we knew when a new man came there.

BY MR. NAKKA:

- Q Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866, are you prepared to state upon your own knowledge that he didn't return up there up there at that time?
- A No he did 't return up there, I aint prepared to say in the fall whether he returned there or not.
- Q You don't know whether he did or not? A No sir.

BY MR. HASTINGS:

- Q You know you never heard of him returning there in the fall of 1866? A No sir.

BY MR. NAKKA:

Objected to for the reason that it is incompetent, irrelevant, and inadmissible.

COMMISSION: Objection noted.

BY THE COMMISSION:

- Q When did you first come up in that neighborhood where you are living now and where Joe Lynch lives now? A I aint living there now.
- Q You went there after the war? A I went there several times in the summer, I think I traded for the place along in August, during the summer of '67. Summer of '66 after this Treaty was made on the 19th of July, 1866.
- Q You moved up there close to where Joe Lynch now lives in December, 1867? A '66.
- Q December, 1866? A Yes sir.
- Q You know Mr. Clark where Simon Lynch was living when you moved up there, did you? A Yes sir, I let him move over there on my place, after I got it.

- Q From your knowledge of the people and condition as they were and the nature of the country, can you state to this Commission positively that Joe Lynch and his family did not come to that neighborhood in the Cherokee Nation until about 1868? A 1868 or '69.
- Q If at any time after December, 1866, the applicant and his family had come to that portion of the Cherokee Nation, you think you would have known it? A Yes sir, known it after a day.
- Q You don't know as to whether or not Joe Lynch himself might not before at Simon Lynch's horse back in the fall of '66 and stayed three days as they claim? A Might have been at Simon's, but he wasn't living there in the fall, he was over at the other place about six miles from there, he might have been there. This road that I stayed told you that runs to this trading point, he lived about a mile from that down in the bottom, right above where the Military road crossed Cabin Creek.
- Q How far from where he lives now? A I suppose it is four or five miles on a direct line now since the lines were run out.
- Q Did you ever have a conversation with Joe Lynch shortly after he returned there with reference as to whether or not that was his first trip to the Cherokee Nation after the war? A No sir.
- Q You never heard him say whether or not that was his first trip? A I don't know as I ever did.
- Q Do you know whether in the fall of 1866 that he made any foundation of a house? A He never made none there where he is living now.
- Q How old was this child that Joe Lynch and his wife brought there with them? A It seemed to be in his wife's lap.
- Q A year old probably? A I don't think it was a year old. I don't think he let them get a year old before he had another one.

CASE CLOSED.

H. N. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct copy of his stenographic notes thereof.

(Signed) H. N. Vance

Subscribed and sworn to before me this 14 day of December, 1904.

(SEAL)

(Signed) Charles H. Sawyer
Notary Public.

Maggie Kennedy, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

Maggie Kennedy

Subscribed and sworn to before me this the 23rd day of December 1904.

Charles H. Sawyer
Notary Public.

A. F. No.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Joe Lynch, et al., as Cherokee Freedmen, consolidating the appli-
cations of:

Joe Lynch et al.	Cherokee Freedmen	D	376
Robert Foster,	"	"	D 522
Hester Foster et al.,	"	"	D 383
Arthur Lynch,	"	"	D 384
Cyrus Lynch	"	"	D 388
John Lynch	"	"	D 386
Vina Denton et al.,	"	"	D 507
Honey Curie et al.,	"	"	D 430
Rachel Downing et al.,	"	"	D 430
Martha Lynch et al.,	"	"	D 1077.

-: D E C I S I O N :-

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Joe Lynch for himself and wife, Sophia Lynch, and minor children, Eliza, Cynthia J. (June), Randolph, Ruth and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlina J. (June), Ethel J. (June) and Josephine Foster; thereafter, on October 20, 1902, there was filed with this Commission an affidavit showing the birth, on March 20, 1902, of Arthur Foster, child of the applicant, Hester Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Denton for his wife, Vina Denton, and minor child, Stella Denton; by Honey Curie for herself and illegitimate minor child, Lela Duffington; by Walter Downing for himself, and

wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; thereafter, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 26, 1902, of Hubert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Leo B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Leo B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Hubert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on Motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 12, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Leo B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said appli-

cants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Herbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, John and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curle and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedman enrollment cards No. D 429 and D 1077, it appears that one John Buffington is the father of the said applicant, Lula Buffington, and that one Watson Hicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Lee E. (Bennett) Lynch. But one John Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 558-R 271), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Hicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I. T. D. 544-04), William Roster (I. T. D. 1468-04) Minnie Duncan, et al. (I. T. D. 1470-04), Samantha Chambers (I. T. D. 2296-04), Ed Williams (I. T. D. 4230-04), Martha Albert, et al. (I. T. D. 4732-04) and Moses Ross (I. T. D. 6056-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Roster Foster, James Foster, Pearlle J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and John Lynch, Vina Benton and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Lee E. (Bennett) Lynch, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the Act of Congress below noted; and that Herbert Downing

should be unrolled as a Cherokee Patent, in accordance with the provisions of section twenty-one of the Act of Congress approved March 20, 1908 (No. 3241, 40 Stat. 497), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) John D. Rusk
Chairman.

(Signed) T. B. Hooten
Commissioner.

(Signed) E. H. Brundage
Commissioner.

Done at Muskogee, Indian Territory,

this JULY 10 1908

9. D. 386

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901.

Given under my hand this
day A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
day of Sept., 1901.

A. S. M. Peas

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

DEPARTMENT OF THE INTERIOR,
(COMMISSION TO THE FIVE CIVILIZED TRIBES)

FILED
SEP 12 1901

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Sprio Cyrus Lynch
for enrollment as a Cherokee Freedman:

Case No. F. D. 385

To Cyrus Lynch or McRea, Chelsea I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct. 1st at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 11th day of Sept., 1901.

L. B. Bell

Attorneys for the Cherokee Nation.

COPY.

Cherokee Freedmen

D-385.

Muskogee, Indian Territory, June 16, 1905.

Cyrus Lynch,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for your enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-25.
Register.

SIGNED:

James Bixby.
Chairman.

Cherokee Freedmen

D-876, et al.

Muskogee, Indian Territory, June 16, 1906.

A. S. Moran,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Hubert Downing, and rejecting, among others, the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-21.
Register

Chairman,

COPY.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED)

Tame Dixie
Chairman.

Incl. 8-33.

COPY.

Charles Freeman
D-374, et al.

Mustang, Indian Territory, June 16, 1906.

The Honorable,

The Secretary of the Interior,

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee Freedmen, including the Commission's decision dated June 16, 1906, granting the application for the enrollment of Herbert Manning, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee Freedmen.

On July 31, 1906, the Department remanded this case for rehearing and readjudication.

Respectfully,

Incl. 8-34.

Very truly,
Tamm Bixby
Chairman.

Through the

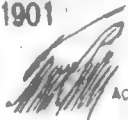
Commissioner of Indian Affairs.

V3. J. D. 383-

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 22 1901



ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 22, 1901
 Post Office Vienna, D.C.
 District Delaware
 1. Name Cyrus Lynch Age 26
 Owner's name _____ Citizenship _____
 Year _____ Page _____ No. _____ District _____

Parents:
 Father Jas Lynch - living Citizenship _____
 Mother Josephine - living Citizenship _____

2. Name of wife _____ Age _____
 Owner's name _____ Citizenship _____
 Year _____ Page _____ No. _____ District _____

Parents:
 Father Robert Citizenship _____
 Mother _____ Citizenship _____

Names of Children:

- | | | | | |
|-----|------|------|-----|-------|
| 3. | Year | Page | No. | Dist. |
| 4. | Year | Page | No. | Dist. |
| 5. | Year | Page | No. | Dist. |
| 6. | Year | Page | No. | Dist. |
| 7. | Year | Page | No. | Dist. |
| 8. | Year | Page | No. | Dist. |
| 9. | Year | Page | No. | Dist. |
| 10. | Year | Page | No. | Dist. |
| 11. | Year | Page | No. | Dist. |
| 12. | Year | Page | No. | Dist. |

MAY 22 1901

Application made by no. 1 Stenographer E. R. Kumbarger

X 12 19 3 76
 A. S. McRae atty for applicant.



NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Cyrus Lynch,
Vinita, I. T.
Cherokee F-9-365.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. Fr. R - 882

Cher. Fr. R. 882

Trans. from Cher. Fr. D 386

STWAG: C. H. H. H.

Right: Over All Forces

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18-

DEPARTMENT OF
COMMISSION TO THE
AUG 27 1901

File No. 386, John Lynch

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Joe Lynch for the enrollment of himself and wife and five children as Cherokee Freedmen, being sworn and examined by Commissioner Breckinridge, he testified as follows:

- Q Give me your name? A Joe Lynch.
Q How old are you? A I guess about 60 years old.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Delaware.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A Yes sir, wife.
Q Any children? A Yes sir.
Q How many? A I have got the names and ages. (Produces paper)
Q You have six children under 21 years of age have you? A Yes sir.
Q The oldest one of these six is Viney? A Yes sir.
Q Are any of this six that we are talking about married? A No sir.
Q How long have you lived in the Cherokee Nation? A All my life, bred and born here.
Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
Q Give me the name of your father? A I don't know him, I never did see him.
Q Give me the name of your mother? A I don't know her, but she was named Viney; but she is dead.
Q How dead many years? A Yes sir.
Q To whom did you belong before the war? A Joe Lynch.
Q He was a Cherokee citizen? A Yes sir.
Q You were his slave at the beginning of the war? A Yes sir.
Q Give me the name of your wife? A Sophia.
Q How old is your wife? A I guess she is about 45 years old.
Q When were you and she married? A I couldn't say when we did marry, hardly.
Q Well, how long time ago? A Yes sir.
Q Before any of these children were born? A Yes sir.
Q She must be more than 45? A She must be more than that.
Q Is she the mother of your oldest child? A Yes, sir.
Q That child is 32? A She must be older than that then I guess.
Q Maybe about 50 isn't she? A Yes.
Q You know the name of her father? A No sir.
Q Did you know the name of her mother? A Yes sir.
Q What is it? A Her mother was named Chaney Ross, she is dead.
Q Has she been dead very many years? A Yes sir.
Q More than 20 years? A She died time the war was going on, I think.
Q To whom did your wife belong? A Belonged to Susan Ross.
Q She was a Cherokee citizen? A Yes, sir.
Q And your wife was a slave in the Cherokee Nation when the war started? A Yes sir.
Q Now these six children for whom you apply, the oldest one is named Viney? A Yes sir.
Q That child is 19 years old, isn't she? A Yes sir.
Q Then Eliza is that the next one? A Yes sir.
Q She is 18 years old, isn't she? A Yes sir.
Q Cynthia Jane, that's the next one isn't it? A Yes sir.
Q She is 16 years old? A Yes sir.
Q Then comes Randolph, is that it? A Yes sir.
Q Randolph is 15, is that right? A Yes sir.
Q Then comes Ruth? A Yes sir.
Q She is 13 isn't she? A Yes sir.
Q Then comes Jackson, he is 11 isn't he? A Yes sir.

Q And that's your last one? A Yes sir.
 Q Are these children all living now? A Yes sir.
 Q Are you on the 1880 roll? A No sir.
 Q None of your family on the roll of 1880? A No sir.
 1880 authenticated roll of citizens of the Cherokee Nation
 examined and applicants not found;
 1898 census roll of citizens of the Cherokee Nation
 examined and applicants not found.
 Q None of your family are on the 1898 roll? A No sir.
 Q Did you draw Strip money for yourself and family at the 1st
 payment? A No sir, I drew at the first payment.
 Q Then none of you are on the Kerns-Clifton roll? A No sir.
 Kerns-Clifton pay-roll of citizens of the Cherokee Nation
 examined and applicants not found.
 Wallace roll of citizens of the Cherokee Nation examined
 and applicants identified as follows:
 page 123 #2584 Joseph Lynch, Delaware District;
 page 123 #2585 Sophia Lynch, Delaware Dist;
 page 123 #2595 Vina Lynch, Delaware Dist.

Com'r to roll clerk: Vina is the last one you have got there?
 A Yes sir.

Q Why are you not on the roll of 1880? A Well sis, I couldn't
 tell you how come I wasn't on.
 Q Neither you or your wife, did you apply to have yourself put
 on that roll? A Yes sir.
 Q And they wouldn't put you on, either one of you? A No sir.
 Q Did they tell you why? A No sir.
 Q Well then none of you are on the roll of 1880? A No sir, I
 guess not.
 Q Do you know the reason of that? A No sir.
 Q Why did they refuse to put you on the Kerns-Clifton roll, all of
 you? A I couldn't tell you that, only when I asked them they said
 it was just through an oversight.
 Q Where did you go during the war? A I went to Kansas.
 Q Did your wife go with you? A No sir.
 Q Did she ever go to Kansas with you? A Yes sir, she went after I
 did I think, or a little before; she was a little bit of a girl.
 Q I just want to know whether she went to Kansas with you?
 A No sir.
 Q Where did you marry her? A In Kansas.
 Q You have got a child named Hester? A Yes sir.
 Q Where was that child born? A They were all born and raised here.
 Q I asked you about Hester, was Hester born in the Cherokee Nation?
 A Hester wasn't, Hester was my baby.
 Q Well, where was Hester born? A I believe she was - -
 Q Born in Kansas? A Yes sir.
 Q Hester is 32 years old now? Is she? A I guess so, I don't know
 the age myself.
 Q That is the age you have got on this memorandum? A Yes, I got
 a fellow to put the age down: just had to make a guess at it.
 Q Where was Nancy born? A Down here in the Cherokee Nation. Out
 here on the Delaware, right where I am living at.
 Q All these other children where were they born? A All of them
 was born right there.
 Q In the Cherokee Nation? A Yes, sir.
 Q Your wife didn't go to Kansas when you went there? A No sir.
 Q You were married to her when you went to Kansas? A No sir.
 Q When did she go to Kansas, when did you see her up there?
 A I saw her there along in '83.
 Q Where did you see her? A I saw her there about Allen County,
 there.

Q How long did you know her before you and she got married?
 A I guess I must have known her about 6 or 7 years I guess.
 Q Did you know her before she went to Kansas? A I knowed her
 people, they lived right down below where --
 Q I am asking you if you knew her? A Yes, I knowed her; she was
 just a little bit of a girl then.
 Q You knew her before she went to Kansas? A Yes sir.
 Q How long had she been in Kansas before you married her, how long
 was it after she got there before you married her? A I guess she
 had been there, I expect about four years.
 Q She had been there about four years and then you and she married
 there? A Yes sir.
 Q How old was your child, Hester, when you and your wife came back
 to the Cherokee Nation? A Oh she was just a young thing, just a
 little bit of a baby.
 Q Only a few months old? A Yes sir.
 Q How long after you married your wife before Hester was born?
 A It wasn't long.
 Q More than a year? A No sir, I guess it must have been about
 nine months before she was born I guess.
 Q So you and your wife came back to the Cherokee Nation then about
 a year after you were married? A Yes sir.
 Q Because Hester was born and was a baby some months old? A Yes
 sir.

It now being the noon hour the Commission adjourns until
 1 o'clock pm.

M. D. Green, being first duly sworn, states that he stenographer
 to the Commission to the Five Civilized Tribes he currently recorded
 the testimony and proceedings in this case and that the foregoing is a
 true and complete transcript of his stenographic notes thereof.

Signed, M. D. Green,
 Subscribed and sworn to before me this May 22, 1901.
 Signed, C. R. Breckinridge,
 Commissioner.

It now being the hour of one o'clock P.M. May 22nd 1901, and
 the Commission having been called to order, the application for the
 enrollment of Joe Lynch et al. is continued as follows:

W. W. Hastings for the Cherokee Nation.
 A. S. McRea, attorney for the applicants.
 C. R. Breckinridge, Commissioner presiding.
 Chas. von Weise, Stenographer.

JOE LYNCH, the applicant herein, re-called and examined as
 follows by Commissioner C. R. Breckinridge:

Q I understand that you desire to make a correction in your testi-
 mony given in this morning? A Yes sir.
 Q Then you testified that your child Hester was born in Kansas?
 A Yes, sir, I made a mistake there.
 Q You testified, as I recollect it, that the child Hester was born
 in Kansas and was a few months old when you came from Kansas after
 the war and came into the Cherokee Nation? A Yes sir, but she was
 born in the Cherokee Nation, all of them was born here, I just made
 a mistake this morning.
 Q Did you bring your wife back from Kansas? A Yes sir.
 Q When you first came back from Kansas, did you bring your wife
 with you? A Yes sir.
 Q Do you mean to say that you don't remember if she brought a small
 ling babe with her? A Well when I first came I first came to see

horseback and didn't bring her with me.

By Com'r Breckinridge: I want to warn you that you have made some very positive statements in regard to your coming here after the war and that when you testified this morning you said that you were positive that when you first came back to the Cherokee Nation from Kansas after the war that you brought your wife with you and that she had a baby in her arms at the time that was born in Kansas just a few months before you started, and now you come and desire to change all that and I simply desire to warn you that you are under oath and that you are to consider well what you intend to swear to for if you do not swear the truth you are liable to get yourself into trouble, very serious trouble in fact.

Q You say now that when you came here the first time from Kansas directly after the war, that you came by yourself on horseback and that your wife was not with you then? A No sir she was not.

Q And you also desire to correct your statement of this morning wherein you stated that when you and your wife came down here from Kansas, she had a baby in her arms? A No sir she did not, I made a mistake in that, the baby was born since then, she was born in the Cherokee Nation.

Q You say now you first came by yourself? A Yes sir on horseback to look out a location.

Q When did you come here by yourself, and where did you come to?

A On Grand river pretty close to where I am living now, and located me a place.

Q When was that? A November of '66.

Q Did you come down there then to prepare a place for yourself and family? A Yes sir, for me and my wife.

Q What work did you do there that time? A Located me a claim and laid the foundation for me a house.

Q What else did you do? A Never did nothing else then.

Q How long did you stay there before you went back to Kansas?

A Not very long.

Q Did you stay there until Spring? A No sir, maybe a week or two.

Q And then what did you do? A Then I goes back and gets my woman and comes down and builds my house.

Q What time was it you say you first come there? A It was in November.

Q How did you bring your wife when you come with her? A In a wagon.

Q Just you and your wife? A Yes sir.

Q Nobody else? A No sir.

Q Did you go right back to Kansas and get your wife and bring her right straight back here? A Yes sir.

Q Your daughter Vina is married is she? A Yes sir.

Q So you made a mistake there also when you said this morning that the children you applied for were all under age and living with you at this time? A Yes sir I made a mistake there, Vina is married, she has not been married very long and I had forgotten that she was.

By Com'r Breckinridge: So the application for her will not be continued, as she will have to apply for herself or be applied for by her husband.

By A. S. McRea, attorney for the applicant:

Q Mr. Lynch, you say that you were born in the Cherokee Nation?

A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where to? A Kansas.

Q When did you return to the Cherokee Nation? A In '66 in November.

Q Where did you first come to the Cherokee Nation when you returned the first time from Kansas? A I located right where I am living now, on the river in Delaware district in the Territory.

Q In the Cherokee Nation? A Yes sir.

Q Who were your owners before the war? A Joe Lynch.

Q You say that you laid the foundation of your house preparatory to

the moving of your family, your wife, from Kansas, when you came here that first time by yourself on horse-back and then went back and got your family? A Yes sir went back for my women.

Q How long had it been before you returned to the Cherokee Nation after you got back to Kansas that time? A I cant tell just exactly - I dont know just how long - it has been so long that I had done forget just the exact time.

Q Was it in December of the same year or in the January of the next year, in 1867 - was in in December of '66 or in January of '67, in other words, who long did you stay in Kansas before you came back to the Cherokee Nation after you had been here and located your claim and laid the foundation of your house preparatory to moving your family here, and then went back up there? A I dont think I was in there more than two months before I returned here with my wife.

Q Have you lived in the Cherokee Nation continuously ever since that time that you came back here with your wife? A Yes sir.

Q Did you and your wife belong to the same owners before the war?

A No sir, my wife belonged to Susan Ross.

Q Were you and she married before the war? A No sir.

Q When were you and she married? A After the war.

Q After the war closed? A Yes sir after the war closed.

Q Is your name on any of the authenticated rolls of the Cherokee Nation? A No, sir, not been able to find it on that, but it is on the Wallace roll.

Q Can you tell why it is not on the roll of 1880? A No sir I dont know.

Q Did you make application for enrollment then? A Yes sir I applied as a Cherokee Freedman when the census takers come round to the houses then.

Q Did you get on the roll then? A I cant tell if they put me on then or not, if they did they scratched me off again.

Q Was you rejected that you know of? A No sir.

Q You say you have lived continuously in the Cherokee Nation ever since November of December of 1866 up until now? A Yes sir I has lived here ever since then till now.

By W. W. Hastings, Cherokee Representative:

Q You were in here before dinner were you not? A Yes sir.

Q And you testified then that you brought your family with you when you came back from Kansas - your wife and one child? A No sir I did not bring any child, I made a mistake then; I dont know what I did say then.

Q You have found out since going to dinner and talking with your lawyer, that the age of your oldest child would be enough to have her born here, in other words, that she could not be the age you give in for her, and be a month or two old at the time you say you came back from Kansas - in '66? A No sir I haint talked it none, I just made a mistake in giving in the ages, I remembers now that that child was not borned then, she was borned after we got here.

Q Wasn't that oldest child born in Kansas before you come back to the Cherokee Nation? A No sir, it wasn't.

Q You testified that it was didn't you before the Kerns-Clifton Commission some five years ago? A No sir not of it being born in Kansas.

Q Didn't you swear then that you brought that child back with you when you and your wife come to the Cherokee Nation from Kansas right after the war? A No sir I dont know what I testified there.

Q Didn't you testify before the Kerns-Clifton Commission that you had this one child when you left Kansas after the war to come to the Cherokee Nation and that you brought it with you? A No sir I never told them fellers that.

Q You never swore that? A No sir.

Q Where did you live before the war? A Well sir, I lived in

Saline district with Lon Lynch's father.

Q You have seen Lon Lynch around here, the one that lives on Grand river, haven't you? A Yes, sir, that is my young master.

Q He was living there when you came back wasn't he? A No sir, I was in Flint.

Q Didn't he live in Flint? A I don't know where he lived then.

Q Was he living in Saline? A I was not in Saline.

Q Didn't you come back to the old Joe Lynch place? A No sir, I come back and located on this side of the river from the old place.

Q Didn't you swear before the Kansas-Clifton Commission that you come back to the old Lynch place? A No sir I never.

Q You deny going back to the old place then? A I told you that I never went there.

Q Who were your neighbors there? A Daniel Landrum.

Q Who else? A Davis.

Q What Davis? A I don't know nothing but Davis, he was a full blood Indian.

Q Where did George Clark live? A Well George Clark lived away up there on Grand river.

Q How far from you? A Well I don't know exactly, I can't tell how many miles it was.

Q He wasn't your near neighbor then? A No sir.

Q Didn't you testify before that he was? A No sir.

Q Do you know Watt West? A Yes sir.

Q How far did he live from you then? A I never seed him then.

Q How long after that before you saw him? A I don't know exactly.

Q How far does he live from you now? A 15 or 16 miles as near as I can tell.

Q Where did you make your first crop after you got back from Kansas?

A The first crop I made was on a little bit of land I had rented from a full blood Indian.

Q What was his name? A Joe Dirtwater.

Q Was that in Saline or Delaware? A That was in Saline.

Q How far from where you now live? A 4 or 5 miles, I don't know exactly.

Q Do you live in Delaware district now? A Yes sir.

Q How long did you stay in Saline, before you moved to Delaware district? A I never lived there at all, I just rented a piece of ground there and went over on horse back and worked it.

Q So you have lived practically on the same place that you now live ever since your return from Kansas? A Yes sir.

ALLEN LYNCH, called and sworn by Commissioner Breckinridge, testified as a witness on the part of the applicant:

Examined by Commissioner Breckinridge:

Q What is your name? A Allen Lynch.

Q How old are you? A 61 about.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A Might say all my life.

Q Do you know the applicant there, Joe Lynch? A Yes sir.

Q How long have you known him? A We were born and raised on the same place.

Q You have known him practically all your life then? A Yes sir.

Q Did you know him during the war? A Yes sir.

Q Where did you see him during the war? A We were soldiers together and were both in the same regiment.

Q When were you discharged after the war? A In '65.

Q Where were you discharged? A At Leavenworth.

Q When did you see him after that? A We came to Neosho Falls together in '65 and I left him there in that winter, reckon about Christmas and came back here to the Nation.

Q Are Neosho Falls in Missouri? A No sir in Kansas.

Q Where did you locate here in the Nation on coming from Neosho Falls? A On the east side of Grandriver.

Q How long did you stay at that place? A Until some time in March.

Q Of what year? A '66.

Q On the east side of Grand river? A Yes sir.

Q Then where did you go? A Moved right down here to the mouth of this creek here.

Q Gabbins creek? A No sir, where Bull creek runs into Gabbins.

Q How long did you stay there? A Raised a crop there, a crop of corn, and staid there until June or July.

Q You say you staid on the east side of Grand river until March of 1866? A That was when I first moved over here.

Q You spoke of going first, when you got back, to a place on the east side of Grand river, when did you get there? A The first day of February '66.

Q How long did you stay there? A 7 or 8 days.

Q And then you come over here to Bull Creek, is that right? A Yes sir.

Q How long did you stay at this place at the mouth of the Creek?

A We staid there until along in June or July.

Q Of what year? A '66.

Q Then what did you do? A We moved down to what was called the old Ark Simmons place.

Q Where is that? A About a mile from the old Lewis Nell place.

Q How long did you stay there? A We staid there until some time maybe in October, can't tell exactly.

Q Was it of the same year? A Yes sir.

Q Then where did you go? A Went to the Six Mile Bottom on McGarrie's place.

Q How long did you stay there? A ~~XXXXXXXXXXXXXXXXXXXX~~ I don't know exactly - George Clark bought the place and we moved off.

Q Was that the same year? A Yes sir.

Q Where did you go to then after you left the place George Clark bought? A Went to the Dr. Thompson place.

Q Still in '66? A Yes sir.

Q How long did you stay there? A Until some time along in '67, cant tell exactly.

Q Was it in the summer or fall? A I left there in the summer of '67.

Q You say that you left Joe Lynch up on Neosho Falls? A Yes sir.

Q When did you see him again after leaving him up there? A I saw him while I was living on this Six Mile Bottom, he came down there to see his brother in law Simon, and to locate him a place.

Q Six Mile Bottom of what creek or river? A Grand river.

Q On which side of the river? A The west side.

Q Did he pick himself out a place there? A Yes sir.

Q Is that the place he is living on now? A Yes sir.

By A. S. McRae:

Q Do you know Mr. Lynch, when Joe Lynch came to this place that you speak of to seek him out a location, do you know when it was?

A It was in the fall of '66.

Q Well you have known him to have lived in the Cherokee Nation continuous ever since he first moved to that place have you not?

A He has never moved off of it since he came there.

By W. W. Hastings:

Q When did he move here with his family? A He got here with his family in '67.

Q Was it in the fall? A In the Spring or summer.
 Q How long did he stay when he first came? A Week or ten days.
 Q Then did he go back? A Yes sir.
 Q He had no means then did he -- nobody had any at that time did they? A No sir, not much.
 Q Was he a horse-back or foot the first time you saw him? A He was horse back when he came there to look up a claim.
 Q How many children did he have when he came in the following spring or summer with his family? A I cant remember just exactly, must have had three, four, five or six, I dont know just how many.
 Q Did they come in wagons that time? A Yes sir.
 Q When he did come back with his family, where did he move to?
 A Right on the place where he lives now.
 Q He never went back to the Joe Lynch place? A No sir, right where he lives now.
 Q Is that in Delaware district? A Yes sir, right close to Guss's.
 Q How far is that from the old Joe Lynch place where he used to live before the war? A 4 or 5 miles.
 Q Is the same neighborhood though? A Yes sir.

By A. S. McRea:

Q Are you acquainted with the children of Joe Lynch? A Well, yes sir, I cant give the names of them all, I cant count them all, he cant ever count them; I knows them but I dont know their ages and cant give all their names. He cant even do that himself.
 Q Have you any knowledge of your own how old the oldest one of his children is? A No sir, I cant tell.
 Q Are you acquainted with the eldest one? A I knows them all but I cant tell nothing about their ages, I lives there in two miles of them but I cant tell nothing about their ages.
 Q Were they all born here in the Territory? A I think he brought two of them with him from Kansas when he come here first.
 Q When he moved here with his family you mean? A Yes sir.
 Q Were the others all born here? A I think they was.
 Q You dont know which ones were born in Kansas? A No sir, I think though that Hester -- a girl -- and the other one -- I dont know -- I dont know of any others was born there or not; The others though was all born right there where he lives. I dont know how many he brought with him from Kansas.
 Q Is the one that you referred to by name the oldest one? A Yes, sir, that I know of.
 Q You dont know of they have any older ones or not? A No sir I dont know.

By the Commission:

Q This place that you say that you saw Joe Lynch the first time when he came here to locate him a place, when he came here first on horse-back, was that in what you call Six Mile Bottom? A No sir, it was on the prairie, right on top of the prairie.
 Q You were living then yourself on the Six Mile Bottom? A Yes sir I was about four miles below there.
 Q And when you next saw him it was in the following summer? A Yes sir.
 Q When he was moving his family? A Yes sir.
 Q Did he move them all to this place near Six Mile Bottom? A Yes sir.
 Q How far from where you lived was this place? A Must have been 4 or 5 miles or maybe six miles.
 Q Were you at his place when he got there? A No sir, he was there when I saw him, he was right there.
 Q How long had he been there when you first saw him and his family?
 A I cant tell you that.
 Q But that is the first time you saw him after you saw him on horse back by himself the year before? A Yes sir.
 Q You dont know if he had just come or not? A No sir I never asked him.
 Q Do you remember when he married in Kansas, or were you present

at the time? A No sir I wasn't there; he married in '63 or '64, because we both belonged to the same regiment and were mustered out together and I left him there and during the time I left him there he married.

ANDERSON LYNCH, called and sworn by Commissioner C. R. Brockinridge, as a witness, testified as follows on the part of the applicant: (Examined by Com'r Brockinridge)

Q What is your name? A Anderson Lynch.

Q How old are you? A I am about 64.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A I was born and raised here.

By A. S. McRea.

Q Are you acquainted with the applicant, Joe Lynch? A Yes sir.

Q How long have you known him? A All my life.

Q Did you see him here in '66? A Yes sir.

Q What time of the year was it that you saw him? A It was in the fall of '66.

Q Where was it that you saw him? A It was right there on the river, he was making a claim where he is now living.

Q Did you know him before the war? A Yes sir.

Q What did he belong to? A To Joe Lynch, the same man I did.

Q Are you acquainted with his wife? A Yes sir, a little, I have seen her in Kansas.

Q When did you see her in Kansas? A In '65, when I first got acquainted with her.

Q Were they married then? A Yes sir.

Q Do you know when Joe Lynch went back to Kansas for his family after he had first been here to locate him a claim? A Yes sir it was in the winter, and I think that he went up here to George Mission and had to stay a while and never got back here until in the winter of '67.

Q And did he then bring his family and locate where he is living now? A Yes sir.

Q Did they have any children born in Kansas? A They had one that I remember of, a girl.

Q What is its name? A Hester.

Q Was she born in Kansas? A Yes sir, I know she was.

Q How old was she when she came here from Kansas? A I don't know exactly.

Q Of your own knowledge, has Joe Lynch lived in the Cherokee Nation continuously ever since he came here in '66? A Yes sir.

By W. W. Hastings:

Q Have you ever been tried for anything? A Oh yes I has been tried.

Q What for? A I has been tried for murder.

Q What was done with you? A I was acquitted.

Q Ever been tried for anything else? A No sir.

Q You know Joe Lynch before the war did you? A Yes sir, we was raised together.

Q Where did you live at the time that you say Joe came back here in the fall of '66? A On Lynch's Prairie, and heard of him being over there and came over to see him.

Q Is Lon Lynch your young master? A Yes sir.

Q And you say that Joe brought back his family from Kansas to the Cherokee Nation in the fall or winter of '67? A Yes sir, it was in cold weather.

Q He had one child then that you remember? A Yes sir, he didn't have any children with him the first time he came, he came the first time on horse-back by himself.

Q I mean when he brought his family - his wife? A Yes sir.

By A. S. McRea:

Q You are a Cherokee citizen are you? A Yes sir.

APPLICANT, re-called and examined by the Commission:

Q How did you get at the ages of these children that you handed in on this slip of paper? A I got a man to put them down.

Q Who told him the ages to put down? A I did, I just had to guess at it; I didn't know their ages exactly and had to guess at it, and he put them down as I said I thought they was.

B/ W. W. Hastings:

Q Is your wife living? A Yes sir.

Q Where was this list made out? A It was made out over at home.

Q Was your wife present when it was made out? A Yes sir she was.

Q You talked with her about their ages didn't you? A No she can't count none; I talked with the man that put it down; of course she was standing there listening to me.

Q You're sometimes known by a nick-name are you n t; as Joe Buzzard or Joe Lynch? A Yes sir.

G. L. LYNCH, called and sworn by Commissioner C. R. Breckinridge, testified as follows on behalf of the Cherokee Nation:

(Examined by Com'r Breckinridge)

Q What is your name? A G. L. Lynch.

Q What is your age? A 60.

Q What is your postoffice? A Stillwell, I. T.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life.

Q Do you know the applicant here, Joe Lynch? A Yes sir.

Q Did he belong to your father before the war? A Yes sir.

Q And at the time of the war? A Yes sir to the war to my father's estate.

Q Do you know what became of this man during the war? A He went to Kansas.

Q Did his wife Sophia belong to your father? A No sir, I am not acquainted with his family.

Q Do you know when this man came back to the Cherokee Nation after the war? A Not exactly.

Q What do you know of his coming back? A Well I came back myself in the winter of '66 and '67, in January or February.

Q And when did you first see this man after the war? A The first time that I saw him since the war was to-day a week ago.

Q Just a week ago? A I never saw him from then until last Tuesday a week ago.

Q Do you know where he lives near Six Mile Bottom? A Yes sir I have been to his house three or four years back, but he was not at home, I have not seen him since '62 until last week.

Q Then you have no knowledge of your own as to when he came back from Kansas to the Cherokee Nation? A No sir, I came back myself in '67 and stopped in Flint district and was going backwards and forwards from Flint to my old place in that year of '67, and I found some of the negroes there, but Joe Lynch had not come in yet in '67.

Q Did you pass by where he is living now in your wanderings back and forth? A No sir he was not here then.

Q I mean did you pass by that locality where he now lives? A Yes sir I was well acquainted with the country round there.

Q Was you by there in your rounds in 1867? A Yes sir I was all around there and there was no house there then.

Q In 1867 did you go by the exact spot where this man now lives? A I don't know that I did go by the exact spot, but I was round through the country there, backwards and forward.

Q What time in 1867 were you there? A I got back in February of '67

Q Was you right there where this man now lives in February of '67?

A I don't know that I was right where he lives.

Q What time in '67 were you in that neighborhood? A I went around through there frequently.

Q Were you there in the fall or summer of '67? A I was right around

the river then, from the place where this man says he lives.

Q Did you go through that neighborhood in the summer or fall of '67? A I don't remember if I did go through the exact place that this man lives at but I was on the other side of the river, just opposite two or three miles from there.

By V. F. Hastings:

Q You passed by his place about three years ago you say? A Yes sir about 3 or 4 years ago, I went to his house but I did not see him as he was not at home.

Q About how far is that place from your old place? A Well I guess it is about 3 or 4 miles.

Q On which side of the river was your old place? A On the south side.

Q Of Grand river? A Yes sir.

Q When did your father die? A In 1861.

Q About the time the war came up? A Yes sir.

Q Did your father leave any property in that neighborhood in the way of farms and improvements? A Yes sir, left all his property there.

Q What were you doing up there in '67 after you returned to the Cherokee Nation? A I came back and found our old place sold under the Confiscation act and another man living on it, and I was up around there to look after it and the property my father had left.

Q How much of your time did you spend in that neighborhood in '67?

A Well I lived some of the time in Cowlescooma district on Grand river, I had some folks living there, and then I lived in Flint off and on during '67.

Q You say you never saw this man Joe Lynch in that neighborhood any time during that year? A No sir.

By the Commission:

Q How far is Joe Lynch's home from your father's old home? A 5 or 6 miles.

Q Have you lived at your father's old home ever since the war?

A No sir.

By A. S. McRea:

Q When you came back for your interests in '67, you were only looking after your own interests and nothing else were you not? A Yes sir I was just looking after my property there.

Q You don't know whether or not Joe Lynch was at the place that he states he was or not at that time? A He was not there.

Q You are positive that he was not there? A Yes sir.

Q I understood you to say that you never went to the exact spot where he now lives until about three years ago? A There was no place there at all at that time.

Q That was a very isolated country up around there then was it not?

A Yes sir it was not settled up much then, not as many there as there are now by any means.

Q It is possible that he could have been around there when you first came there and you not have seen him, is it not? A Oh yes it is possible.

Q Then he might have been there and you not have run across him?

A He might.

By the Commission:

Q Did you see any of the rest of your father's slaves around there at that time? A Yes sir.

Q Did you visit them? A Yes sir, I saw them all that was there, at the old place.

Q Did you make any inquiry as to where the rest of them were?

A I inquired for Joe and the balance of them.

Q Did you dispose of that property that year or the next? A No sir I was the only one here at the time.

Q When did you get rid of it? A I cannot say positively, my brother and Oul Bell were administrators and they sold it when they got back.

JOSEPH L. THOMPSON, called and sworn by Commissioner O. R. Breckinridge, testified as follows on the part of the Cherokee Nation.
(Examined by Commissioner Breckinridge)

Q What is your name? A Joseph L. Thompson.
Q How old are you? A 62.
Q What is your postoffice? A Vinita.
Q How long have you lived in the Cherokee Nation? A All my life, except one year.

By W. W. Hastings:

Q When did you come back to the Cherokee Nation after the war?
A I got back to Cabin Creek in January, 1888.
Q Do you know the applicant, Joe Lynch? A Yes sir.
Q Do you know where he lives now? A Yes sir.
Q How far did you live from him then? A When I first settled there it was a mile and a half and now it is two miles.
Q Was he living there when you came back to the Cherokee Nation in '88? A No sir.
Q When did you say you returned? A January '68.
Q And he was not living there at that time? A No sir.
Q Did he move there since then? A Yes sir.
Q You were living then about a mile and a half from where he lives now? A Yes sir on what was then known as the Ahsabee place.

By A. S. McRea:

Q How long have you known Joe Lynch? A I have known him nearly all my life, he belonged to my uncle.
Q Do you know where he went to during the war? A No sir, he came from Kansas after the war, but I don't know where he was all during the war, Kansas though I suppose.
Q Did he leave here during the war? A Yes sir.
Q When did he leave? A I don't know.
Q When did he return to the Cherokee Nation after the war? A To the best of my knowledge he returned in '63.
Q Where was the first place that you saw him in '88? A Where he now lives.
Q How long had he been there when you first saw him? A Only a few days.
Q Has he been living there continuously since '88? A Yes sir, I have been living there myself ever since and I have never known of him moving away.
Q Can you state positively of your own knowledge whether or not he was here in the Cherokee Nation before '88? A He was not living where he now does before that.
Q How do you know that he was not living where he is now before that time? A Well I was over the prairie frequently and did not see him until about that time.
Q What kind of a country was it around there? A How do you mean?
Q Was it isolated and grown up with brush and timber or were there lots of settlements around there? A Well there were only a few people living around in that part of the country then.
Q Was it woods? A No sir he lived out on the edge of the prairie like
Q How far did you say you were living from where he does at the time you first saw him? A About a mile and a half.
Q Then you say you moved to another place? A Yes sir it was about two miles from his place.
Q Do you still live there at that place? A Yes sir.
Q Does he still live at the same place that you first saw him at?
A Yes sir.
Q How farx long have you been living at the place you now live?
A 22 years or more, yes it has been longer than that.

WALTER A. WEST, called and sworn by Commissioner O. R. Breckinridge, testified as follows: on the part of the Cherokee Nation:
(Examined by Commissioner Breckinridge)

Q What is your name? A Walter A. West.
Q How old are you? A 80.
Q What is your postoffice? A Spavinaw.
Q How long have you lived in the Cherokee Nation? A All my life.
By W. W. Hastings:
Q Mr. West, where did you live the first few years after the war?
A Over here on the Military Road in Delaware district.
Q Do you know Joe Lynche, the applicant here? A Yes sir.
Q Do you know where he lived? A Yes sir.
Q How far did you live from him at any time? A Well when he first came here after the war he lived two miles from me.
Q When did he settle there? A He came there in the spring of '68 to the best of my recollection.
Q Are you positive that he was not there before the year '68?
A No he was not there.
Q How far did you live from him? A Two miles.
Q How long had you lived there? A I moved there in the latter part of '66; during the first part of '68 I lived in close to Neosho and then I lived near Fort Scott, Kansas and then I came down here and made a place and lived on it until in '69 and sold it to Mip and then moved to where I am now living.
Q Then in '67 and '68 you were living near the old Military road and near where this man lives? A Yes sir up to November '69.
Q Where did this man first come to after the war, to the place where he now lives? A I saw him on the old military road and he said that he had come from Kansas, and he settled near there and made a place; I could see it from my house, it was just in sight. It was close to what is now Pine Place.
Q And you say that was in the spring of '68? A Yes sir that was in the spring of '68.
Q How long was it from the time you saw him on the old military road until he settled on this place? A That same spring that I saw him on the military road coming from Kansas.
By A. S. McRea:
Q Mr. West, how long have you known Joe Lynch? A I knew him before the war when he was a little boy called Buzzard.
Q Where did he go to during the war? A I don't know.
Q Did he leave the Nation during the war? A I don't know except that he told me that he went to Kansas.
Q When did he leave the Cherokee Nation to go to Kansas if you know? A I don't know.
Q When did he return? A In '68.
Q How do you know that he returned in '68? A He came by my place and said he had come from Kansas.
Q How was he traveling? A In wagons of course, there was no railroads through here then.
Q Who was with him when you first saw him? A He was supposed to have his family with him.
Q What family? A Wife and child is all that I saw.
Q Where did he go to then? A Cross the river where he said he was going over among his acquaintances and relations and then he come back on this side and made him a place.
Q When did he locate his present place, where he now lives? A In the same year, '68.
Q Can't you possibly be mistaken? A I can possibly be mistaken, but that is my judgment.
Q How long have you lived in the neighborhood where you are now living? A Ever since November 1869.
Q Do you know anything about the character and nature of that country before '68? A Yes sir.
Q What was the condition of it, open land or wood? Was it well settled up with settlements? A It was not as thickly settled as it is now there was some thick woods down in the bottom.

Q Was it a wild sort of country? A Well I guess you might call it sort of wild, there was lots of game in around there.

Q Are you positive that he was not located in around there before '68? A I did not see him until that time in '68.

Q Is it not possible that you might not have seen him around there and him yet be living there? A Well I don't hardly think it is for I was around there pretty much hunting deer and would have run across him.

Q Is it possible that if Joe Lynch had been a deer that you would not have seen him there at that time on account of the isolated sort of country it was? A No sir not if I had had a Winchester with me it is not likely that he could have got away for I was pretty good at killing deer them days.

Q Is it not possible that he could have come back to the Cherokee Nation from Kansas before '68 and you not have seen him? A Yes it is, but the first time that I saw him was there on the old Military road coming by my place from Kansas, as he said, and that was in the spring of '68. He could not have come by there and settled where he now lives without my having seen him.

Q You don't know of your own knowledge when he did come back to the Nation? A I know that he did not come to where he now lives until in '68.

By the Commission:

Q You are not living in the same neighborhood now that you were when Joe Lynch came back? A No sir, I live six miles from him now and when he come back I lived two miles from him.

Q I understood you to say that when he come back the first time and settled that you were living two miles from where he settled?

A Yes sir.

Q That was within two miles of there he settled then and also where he now lives? A Yes sir.

Q When did you begin living on that place yourself - the one you were living on when you first saw the applicant here? A In the latter part of '68.

Q And you lived there I believe you stated, until the latter part of '69? A Yes sir until in November '69.

By A. S. McRea:

Q Is it not true that you never came to this particular place where you are living now until in '68? A I went there in November 1869.

Q I was speaking of the place where you lived before coming to the place you now live at? A I went there in '66 and made it my home and raised crops there until I sold it to Nip and moved away in '69.

JOE LYNCH, the applicant, recalled and examined by A. S. McRea:

Q Are you acquainted with Mr. Thompson who has just testified for the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life, ever since I was big enough.

Q Did you see him in '66 when you came to the Territory where you are now living? A No sir, I came by myself on horseback that time and never seed him.

Q When did you first see these witnesses? A Must have been in '67 that I seed him.

Q Where was it that you saw Mr. Thompson and Mr. West in '67?

A I saw Mr. West across the river.

Q And not at the present place where you are now living? A No sir when I come down there I never seed nobody.

Q When you brought your wife and family in a wagon did you see Mr. West as he swears you did? A No sir I never.

Q Then he did not see your family and you? A No sir.

Q If you had seen him you would have had some recollection of it would you not? A Yes sir.

Q How long has Mr. West lived in the neighborhood where he now lives - did he live two miles from you when you first settled there?

A No sir, he never lived there when I came there, he came and got a place close by there and lived there after that.

Q When was that? A In '67, when I was living there.

Q What time of the year, in January or in December or in the summer or when? A Long in March of '67.

Q Did you know Mr. West before the war? A Yes sir.

Q If you had met him in '66 you would have some recollection of it would you not? A Yes sir, course I would.

Q Is the statement of Mr. West that he saw you passing his house on the old Military road with your family in a wagon in the spring of '66 true? A No sir that is not true.

By the Cherokee Nation, W. W. Hastings:

Q Mr. West was living within a short distance of you when you located there? A He was on a place there three or so miles from me, he was on the old Military road and I was near Grand river.

By A. S. McKee:

Q When did your permanent residence begin down there? A It commenced long in the winter when I commenced making my field.

Q In the winter of '66? A Yes sir.

By Com'r Breckinridge: The applicant applies for the enrollment of himself, his wife and six children; it is developed in the course of the inquiry that one of the children for whom he applies is married and his application is reduced to five children. It seems that the applicant was a slave in the Cherokee Nation and of a Cherokee citizen prior to, and at the breaking out of the war between the United States and the Confederacy. He appears to have enlisted in the United States army and to have gone to the state of Kansas, from which state he returned after the war. The applicant is not identified on the roll of 1880 or upon that of 1896, or upon the Burns-Clifton roll, he is identified on the Wallace roll. He married in the state of Kansas, and in his first testimony states that he there lived until after the birth of his first child; that his wife had gone to the State of Kansas from the Cherokee Nation during the war, that she remained there four years prior to their marriage and that they returned to the Cherokee Nation one year after their marriage. The testimony relating to the time when his wife went to the State of Kansas is not present at this moment, it having been taken by another stenographer, but that can be inquired into later. The applicant subsequently denied that any of his children were born in the state of Kansas, but it is averred by other witnesses, including one of his own, that when he returned to the Cherokee Nation he was accompanied by one child, and one of the witnesses affirms that he was accompanied by more than one child. Witnesses who lived in the neighborhood in which the applicant located, according to his own testimony, immediately after his return, and at which spot he has continued to live ever since, affirm that he came there in the year 1866 with his family. The applicant affirms that he came there first on horseback in the fall of '66 and moved his family to this locality prior to the spring of '67. The testimony is very voluminous, but is referred to for fuller information in regard to its character. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card and the final decision of the Commission will be made known to him at his postoffice address. The applicant guesses his age at

60 years and that of his wife at 50 years! She appears to partake of all the rights and status enjoyed by himself and she will now be listed for enrollment as a Cherokee Freedman on a doubtful card; she being identified like the applicant on the Wallace roll, but not upon any other roll. The five children applied for, and who are said to be minors, and ~~and~~ whose applications are received at this time, are respectively Eliza, Cynthia Jane, Randolph, Ruth and Jackson; these children range in age from 11 to 18 years, they are all said to be living now, there is no dispute as to their identity or of their being living at this time; they are not identified on any roll, but they will be listed for enrollment with their father and mother as Cherokee Freedmen upon a doubtful card. The final decision of the Commission in regard to all of these applicants will be made known to them through their father at his postoffice address.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the continuation of the above named cause from one o'clock P.M., May 21st, 1901, at Vinita, I.T., and that the above and foregoing is a full true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise.

Subscribed and sworn to before me this the 28th of May, 1901, at Chelsea, I.T.

Signed, C. R. Beckinridge,
Commissioner.

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Bruce O. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing and that the same is a true and correct copy from the original.

Bruce O. Jones

Sworn to and subscribed before me this the 24th of August, 1901.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes
Vinita, I. T., May 28, 1901.

In the matter of the application of John Lynch for enrollment
as a Cherokee Freedman; he being sworn and examined by Commissioner
T. B. Needles, testified as follows:

A. E. Moran, Attorney for Applicant.

- Q What is your name? A John Lynch.
Q How old are you? A 34.
Q What is your postoffice? A Vinita.
Q What district do you live in? A Delaware.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you desire to enroll anybody but yourself? A No sir.
Q Are you married? A No sir.
Q Does your name appear upon any of the rolls of the Cherokee
Nation? A Yes sir.
Q What roll? A The Wallace Roll.
Q It does not appear on the roll of 1880; does it? A No sir.
Q What is your father's name? A Joe Lynch.
Q Your mother's name, Sophia Lynch? A Yes sir.

The 1880 authenticated roll, the 1898 census roll, and
the Kerne Clifton Roll examined and the name of the applicant
not found thereon.

The Wallace Roll examined and the name of the applicant
is found on page 123, No. 2598, John Lynch, Delaware District.

- Q You always lived in the Cherokee Nation? A Yes sir.
Q Live in the Cherokee Nation now? A Yes sir.
Q Born and raised in it? A Yes sir.

John Lynch applied for the enrollment of himself as a
Cherokee Freedman. Upon examination of the rolls, his name
is not found upon the authenticated roll of 1880, or the
census roll of 1898. He is only identified on the Wallace
Roll. He avers that he is the child of Joseph and Sophia
Lynch. His father, Joseph, the records show that he is
enrolled on D Card 376, and the same will be made a part of
the case at bar, and a copy of the same will be filed with
this case now being taken. Applicant makes satisfactory
proof as to residence and will be listed for enrollment
as a Cherokee Freedman on a doubtful card awaiting further
consideration of the Commission.

The undersigned, being duly sworn, states that as stenographer
to the Commission to the Five Civilized Tribes, he correctly re-
corded the testimony and proceedings in this case, and that the
foregoing is a full, true and correct transcript of his stenographic
notes thereof.

Subscribed and sworn to before me this 28th day of May, 1901.

T. B. Needles
Commissioner.

File with Cherokee Freedman, D-386, John Lynch

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1931.

In the matter of the application of Joe Lynch et al. for enrollment as Cherokee Freedman.

Testimony introduced by Cherokee Nation.

Appearances:

A. S. McRea, attorney for the applicants;
J. S. Davenport, of counsel for Cherokee Nation.

REES GRAVENS, being duly sworn and examined by Commissioner ~~Charles H. Johnston~~ Breckinridge, testified as follows:

Q What is your name? A Rees Gravens.

Q How old are you? A I am about 48.

Q What is your postoffice? A Vinita.

A. S. McRea: In view of the fact that the Cherokee Nation has already offered rebuttal testimony in the Joe Lynch matter, I ask that they state in advance what material fact they wish to bring out, whether it is on new matter or what. I certainly object to any testimony unless it is upon some new matter that they wish to bring out or develop.

Mr. Davenport: We will state, in introducing testimony, unless the record shows that we have agreed upon the questions of disproving allegations of the applicant which he has attempted to prove, that is, of the ownership, and his return to the Cherokee Nation within the time provided by the treaty, that we will still introduce testimony. It may be possible the record shows we closed; of course if it does I agree with him, but if it does not show that fact, we are still in our branch or it.

Commissioner: Can the attorney for the applicant cite anything in the record in the nature of an agreement or understanding that the case has been closed.

A. S. McRea: That was my understanding.

Commissioner: Can you cite anything in the record to that effect?

A. S. McRea: Except to this extent; the son, in the person of Mr. Len Lynch, of the owner of the applicant, testified as to the ownership, and he also gave testimony as to the return, and naturally the presumption would be that the testimony on the part of the Cherokee Nation was closed.

Commissioner: What do you propose to prove by these witnesses?

Mr. Davenport: That he did not qualify within the time provided by the treaty, and that he has not resided here continuously since then.

Commissioner: The Commission is compelled to pursue a very liberal course in regard to these cases, though it is aware of there being in some respects very trying to counsel on both sides, and it is also very trying to the Commission. The law under which the Commission operates seems to require, for a practical discharge of the obligations imposed, rather more latitude than is usually allowed, and the objection of counsel for the applicant is noted in the record. At the same time, however, in this case the testimony will be taken into consideration, in connection with the objection, by the full Commission. The proceedings and requirements of the Department are very liberal towards applicants; at the same time they regard that the record is in some instances being unnecessarily ~~made~~ ~~long~~. You can proceed with the witness.

Mr. Davenport: How long have you lived in the Cherokee Nation?

A Oh I have lived in it off and on ever since the close of the war.

Q Did you ever live in Kansas? A Yes, I lived in Kansas.

Q Live in Iola, Kansas? A Lived in Iola about 12 or 13 years.

Q About what years did you live in Iola? A I lived there in '63 or '4, '8, along in there, different years, I was in and out, that was my home when I was around in there; I lived in different parts of Kansas.

Q Do you know the applicant, Joe Lynch, in this case? A Yes, I have seen him.

Q Do you know where he lives now? A Down here on Grand River not far from Island Ford.

Q Did he ever go by any other name, if you know? A Some calls him Joe Buzzard and some Joe Lynch.

Q When did you first get acquainted with the applicant? A When he lived in Iola, Kansas.

Q When was that? A That was along, oh it must have been 25 years since I first knew him, or close onto that.

Q When was the last time you knew him living in Iola, Kansas?

A I can't tell you the exact time when I did see him because --

Q Where did you first get acquainted with him? A In Iola, Kansas.

Q When was that with reference to the close of the war? A Not long after the close of the war.

Q Did he have a family? A Yes, he had a wife, I don't remember now how many children he had.

Q What was his wife's name? A Some calls her Fess and some calls her Sophia, she answers to either one of them names.

Q Was his family living at Iola when you first got acquainted with him? A Yes, sir.

Q How long did they live there? A Oh, they lived there seven or eight years or more, he used to work for Dan Harvelly cutting wood, and the Davis boys.

Q You got acquainted with him in Iola, then, after just after the war? A Yes.

Q And he lived there to the best of your knowledge about how many years? A He must have been there eight or nine years, somewhere along there, six or seven, I never kept no count of it before he left there.

Q Do you know anything about his children, did he have any? A I have seen his children, but I never took no particular observation of them, I seen them all.

Q Did his family live anywhere close to you? A Right close, his wife used to stay in the house with my wife.

Q Where was he? A He was working, chopping saw-logs and working around down there.

A. S. McRea: What is your occupation? A All 'round man, no particular work, any line there is a dollar or five cents in, any man got a job of work, don't follow any one certain thing.

Q How long after the war was it that you first became acquainted with the applicant, Joe Lynch? A I don't know the exact time, but I know I met him in town there for a number of years, right around that town, I don't know when he left.

Q You don't know as regards -- you didn't know him in the year 1866? A I wouldn't say for certain, I expect I did but I will not say for certain.

Q Do you know anything about his ownership? A No, sir, don't know that.

Q His going out of the Cherokee Nation during the war, you know anything about that? A I know he came up there to Kansas.

Q When did he remove there? A I don't know exactly when he came, he came with old Uncle Moss Griggs and Jones Barber and them.

Q When was that? A That was right after the war, or time of the war, close onto that, right along there near the time they raided out of here.

- Q Well, when did he return? A I don't know when he returned.
- Q How long before the war was that? A Before the war, it wasn't before at all.
- Q It was after the war? A Yes, sir, he wasn't up there before the war.
- Q You don't know where he went to before the war? A No, sir.
- Q How long did you live in Kansas? A I have been in and out there ever since the close of the war, I came to Topeka, up here to Chetopa, Kansas, when the first house was ever built.
- Q I will ask you if you are a citizen of the Cherokee Nation?
- A I am a married man here, I married into citizenship here.
- Q Just answer my question, yes or no? A I have never made no claim, no application for any claim.
- Q And you have no particular calling for a living? A I do anything that I can make an honest living at.
- Q Mention some of the things you do? A Haul, clean up, do anything, cut wood, anything in general.
- Q How long do you work at any one particular work? A Just as long as that job is done, then I look for another.
- Q What do you realize out of these jobs? A Whatever I can get out of them, and when that is done I am looking for another one.
- Q How long have you been married? A I have been married twelve years, a little more.
- Q To whom were you married? A I was married to Louise Ross.
- Q And you know Joe Buzzard? A Yes, I have been knowing him right around here for a number of years.
- Q How long have you known him right around here? A I have known him in and out I think about 20 years when I first been in and out, I have seen him at different places.
- Q Well now how long have you known him in and out in Kansas? A I told you how long, I told you he lived there but I don't know when he left there.
- Q What part of that in and out was in Kansas? A I must have known him seven or eight years right around Topeka there and maybe longer.
- Q That was since the war? A Yes, he lived there.
- Q Didn't you testify a while ago that you have been knowing him for 35 years? A I did, I expect I have known him longer than that, I didn't say positive, I expect I have known him longer than that in my rounds, I didn't stay right around him all the time.
- Q 25 years of that time you have known him in the Cherokee Nation?
- A I didn't say positive I have known him that long right in one place, but I can say positively I have known him right here in the Cherokee Nation for 15 or 20 years.
- Q How long did you know your wife before you married? A I knowed her about three or four years.
- Q And you been married to her twelve years? A Yes, maybe longer.
- Q Where did you first meet her? A In Topeka, Kansas.
- Q You married her in Kansas? A Yes, sir.
- Q Then when did you move to the Cherokee Nation with her? A Well when I first come down here with her, to the best of my knowledge, which I can prove by facts, little Ike Martin was a boy about that high.
- Q I don't know him, tell about how many years? A That must be close onto 25 or 30 years, longer I expect, little Ike I expect is 25 or 30, I used to know him, I used to come here and hire a horse and buggy and he take me around over the Nation.
- Q You knew your wife four years before you married? A I expect I knew her longer than that.
- Q Come down to the fact of it? A I haven't got any specified time how long I knowed her.
- Q I want to ask you the question? A Well I have done answered that.
- Q Now you say you knew your wife four years before you married her?
- A I expect I did and maybe longer.
- Q Tell how much longer? A I didn't say how long.

- Q You married her in Kansas? A Yes, sir.
- Q Stayed there about 12 years with her? A Yes, sir, I stayed in different parts of Kansas.
- Q And came to the Cherokee Nation with her? A Yes, sir.
- Q Now how long have you lived in the Cherokee Nation with her?
- A Right here in this town, I have been permanent in this town, about five years, permanent.
- Q With you and your wife? A Yes, sir.
- Q You said now that you knew him in all 35 years? A Knew who for 35 years?
- Q Your wife, knew her for 35 years? A I am just telling the time and different places I have lived.
- Q Didn't you tell you have known your wife altogether 35 years?
- A Maybe longer.
- Q And yet you knew her four years before you married her?
- A I can't give you any positive time about that.
- Q Lived with her 12 years in Kansas? A I can't give you any positive time, I lived with her about 12 years, I lived with her 12 years, she has been dead now about nine months, altogether will make about 12 years.
- Q You lived with her 12 years in Kansas? A I didn't say I lived with her that long in Kansas, I say I lived, I expect I have lived with her that long.
- Q The fact of the matter is you don't know anything about any of it?
- A I know anybody I see, if I see you and anybody ask me if I see you I can tell them I see you.
- Q Do you swear this Joe Lynch is the same one lived in Kansas, Iowa Kansas, 40 years ago? A I didn't say 40, 50 he lived there, and I can prove by dozens of people.
- Q How long? A I didn't tell you how long.
- Q How long did you say? A I didn't say but I tell you he lived there.
- Q How long did he live there? A I told you he lived there about seven or eight years around about the country and when he moved I don't know, it aint no use for him to say he didn't live there.
- Q We don't propose to argue the question. A Well you talked like he didn't live there; he lived right there.
- Q Now I want to go back with reference to the number of years you lived with your wife? A You needn't go back, I have told you all the reference you will get out of that, I told you that now, you are just losing time, I am not telling you the positive date about how long I lived, but I tell you what I can do, I have the papers down in my trunk will tell the dates, it tells you the dates, they are recorded and you can't dispute them.
- Q Now according to your estimate you lived with and known your wife 16 years; is that right? A You can make it as you please, I have give it now according to my best knowledge, I kept no record of it.
- Q In other words, you just came here to swear against Lynch? A I don't have it to do, I wouldn't lie for you if you were my daddy.
- Q Now didn't you just come here to swear against Joe Lynch? A No, sir I haven't got nothing against the man, not a thing sir, but I don't propose to tell a lie for nobody, a man can't hire me to do that; no, sir: if I am acquainted with a man and a man ask me if I know him --
- Q Well how many children did Joe have in Kansas? A Well I know one time me and my wife was down there, and I couldn't count them, I says, Toes, how many children have you got for Lord sakes, and she says, Mr. Cravens, you see them running around here like quails, count them, and I couldn't count them.
- Q How many did you count? A I counted eleven or twelve, but I understand that he was the father of 22, I don't know it by the facts,

the last count he had 22 I think what his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Cravens, how long have you known Joe Lynch, all told?

A I can't tell you exactly, all told, but you asked me how long did I know him and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out ever since the close of the war.

Mr. Davenport: Did you have any neighbors up there at Iola, Kansas, do you remember the names of any that know about Joe being there?

A Yes there is Dr. Charteen, Dan Harvelly, Bill avis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably here, or their representatives.

A. S. McRea: Now your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedman cases D-383, D-384, D-385, D-386, D-387, D-429, D-430, and D-233.

Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedman D-376.

Note: Copy of testimony also should be filed in case of Robert Foster, D-522, and in D-270, as to children of Piley Curls and Nancy Curls.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 8th of October, 1901.

[Signature]

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I.T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee Freedmen.

APPEARANCES:

Applicant appears in person and by attorney, A. S. McRea. Cherokee Nation by its representatives W. W. Hastings and L. B. Bell.

SIMON LYNCH, being first duly sworn, testifies as follows:

BY MR. MCREA:

Q What is your name? A Simon Lynch.
Q What is your age? A 74.
Q What is your postoffice? A Spavinaw.
Q Are you a recognized citizen of the Cherokee Nation? A I don't know, I guess I am, I hardly know.
Q Does your name appear upon the authenticated roll of 1880? A I reckon so, I don't know.
Q You are an applicant for citizenship in the Cherokee Nation, are you not? A Yes sir.
Q Are you acquainted with Joe Lynch, the applicant who made application for enrollment as a citizen of the Cherokee Nation on May 21, 1901? A Yes sir I know him all his life pretty near.

BY MR. HASTINGS:

Comes now the representatives of the Cherokee Nation and asks permission to interrogate this witness as to his competency to testify.

BY MR. HASTINGS to witness:

Q Your name is Simon Lynch? A Yes sir.
Q You live in Saline District? A Yes sir.
Q You have lived there since the war? A Yes sir ever since.
Q And you are the same Simon Lynch that was convicted of the larceny of some hogs? A Yes sir, and I was not there when the hogs were stolen.
Q You were sent to the Cherokee jail at Tahlequah, Indian Territory? A Yes sir.

BY MR. MCREA:

Comes now the attorney for the applicant and objects to the motive of examination relative to the competency of the witness for the reason that the witness having been convicted of some crime committed in the Cherokee Nation under the Tribal Government is no test of witnesses competency to give any testimony in cases of this character, in view of the fact that under the laws of Congress enacted and put in force in the Indian Territory, the witness herein is now declared under and by virtue of said laws a United States citizen clothed with all the rights and privileges of other citizens of the United States.

BY MR. HASTINGS:

Q You were convicted of stealing hogs from Charles Thompson, who was afterwards Chief of the Cherokee Nation? A That is what it was said.

Q That was the Cherokee penitentiary at that time at Tahlequah?

A I don't know what it was.

BY MR. MOREA:

Q How long have you known Joe Lynch? A Ever since he was a little boy.

Q Was he a slave of a Cherokee citizen of Cherokee blood? A Yes sir.

Q Do you know whether or not of your own knowledge that Joe Lynch went out of the Cherokee Nation during the war of the rebellion?

A Yes sir.

Q Do you know to where he went? A No sir, I don't know.

Q Do you know when he returned back to the Cherokee Nation? A Yes sir.

Q State when you first saw him in the Cherokee Nation after the war? A In the fall of '66.

Q At what place in the Cherokee Nation did you see him? A In the six mile bottom there at my house.

Q You were then living in the Cherokee Nation? A Yes sir.

Q Did you have any conversation with him? A Yes sir stayed all night with me.

Q Did he state to you at that time for what purpose he returned to the Cherokee Nation? A Coming to look out a home.

Q How long did he remain? A About three days.

Q Do you know where he went after that? A Said he was going back to Kansas.

Q When was the next time you saw him in the Cherokee Nation?

A About the first of February he moved down.

Q Of 1867 was it? A Yes sir.

Q Did he bring his family out that time? A Yes sir.

Q You have known him to reside in the Cherokee Nation continuously ever since? A Never anywhere else that I know of.

Q How many persons did his family consist of at the time he returned in February, 1867? A One besides him and his wife.

BY MR. HASTINGS:

Q Where do you live now? A I live right there adjoining places to my old bosses' place in Saline District.

Q Were you living there at the time Joe Lynch come to your house as you have stated the first time? A No sir.

Q Where were you living at that time? A In six mile bottom on a place of George Clark's.

Q Then Joe never moved his family down here in 1866? No sir.

Q And if any of these witnesses testify to that effect they testify to what was not true? A I don't know what they testify. He didn't move until I moved there in Saline District to my house.

Q When did you move to your house? A He moved to my house.

Q When did you move to your house? A February first.

Q Of 1867? A Yes sir.

Q How long had you been over there before he come back? A I had been there about two months.

Q Then it was about two months after you moved over to your house before Joe Lynch brought his family? A Yes sir.

Q And you moved over there the first of February, 1867? A Yes sir.
Q Joe's first wife was related to you wasn't she? A He never had but one.
Q Was that wife related to Joe? A Joe's sister.
Q Why didn't you testify for Joe in this case up at Vinita? A He didn't want me, didn't call on me.
Q Did you ever testify for him before? A No sir.
Q You never testified for him before the Kern-Clifton roll? A No sir.
Q Nor before the Wallace court? A No, sir.
Q Where did you make a crop in the year 1866? A Up on Cabin Creek.
Q On which side of Grand River? A On the west side.
Q When did you move there? A In the summer.
Q Summer of 1866? A Yes sir.
Q Then where did you go? A I come down there close to the old Military Road at Mrs. Kell's old place.
Q Then where? A To the six mile bottom where George Clark let me have a place.
Q What time did you move? A In the fall.
Q Of 1866? A Yes sir.
Q What year is this? A I don't know.
Q What year was it that Wallace made his roll of Freedmen? A I don't know, I can't keep no time of anything that way.
Q What year did Kern-Clifton make a roll? A I don't know.
Q Don't know any of these years? A No sir.
Q What kind of a team was Joe driving when he come down to your place? A An old sorrel mare and one bay.
Q What road did he come in coming to your place? A All roads, he started from Sulphur Springs and come right down over the mountain that is as far as I can tell you he come.
Q What Sulphur Springs was that? A The Bob Daniels old place.
Q On which side of the river was Bob Daniels' place? A West side.
Q Did he come by Watt West's place? A No, sir.
Q How far did Watt West live from the road? A He did live on the side of the road when he come there.
Q Where did Joe Lynch settle when he first come to your house in '67 with his family? A Right where he is now.
Q That is the first place he ever settled? A Yes sir.
Q And he has been living right there ever since? A Yes sir.
Q How long did he stay at your house before he went and settled this place where he resides now? A He stayed there about two months I guess to the best of my knowledge.
Q Then he settled this place in the early summer? A No sir.
Q Or spring? A No sir, it was too late to make a crop.
Q Then he come down there too late in the spring of '67 to make a crop? A He worked at my place a little.
Q And went from your place to where he lives now? A Yes sir.
Q Built him a house? A Yes sir.
Q Did nobody come with him besides his family? A I don't recollect now.
Q What is his oldest child's name? A Hester.
Q And she was with him? A Yes sir.
Q Didn't have any other children at that time? A No sir.
Q You say you don't remember any other colored people coming with him? A No, sir, it has been so long I don't recollect.
Q You used to have his sister for your wife? A I have got her yet when I am at home.

BY MR McREA:

Q Did you ever vote in the Cherokee Nation? A Might near every election.

Q Have you voted in the Cherokee Nation since the time you were convicted of this offense of which Mr. Hastings speaks? A Yes sir every time since never voted when I was a slave, voted since.
Q You have enjoyed all the rights and privileges of a Cherokee citizen every time since 1866, have you? A Yes sir.
Q You speak of living on a place that you got from Mr. George Clark in 1866? A Yes sir.
Q He recollects that does he not? A I guess so.
Q How far do you live from that place that you rented from Mr. Clark with reference to the place you live on now? A About two and a half miles.

BY THE COMMISSION:

Q Where did you go during the war? A Kansas.
Q And when was it you returned to the Cherokee Nation? A February 1866.
Q That is when you came there, February, 1866? A Yes sir.
Q How long had you been here did you say, until you saw Joe Lynch?
A He come in the fall after I come here, yes sir, horse back.
Q Was it cold weather then? A No sir, not right cold, it was in the fall.
Q He came to your place? A Yes sir come to Mr. Park's place where I was living.
Q How long did he remain there Mr. Lynch? A Until spring.
Q I am talking about him? A He stayed there about three days.
Q Just on a visit? A He come down to look out a location.
Q And then where did he go if you know? A He went back to Kansas, said he was.
Q Did you first move from the George Clark place about the first day of February? A Yes sir.
Q And you answered Mr. Hastings that you had been there about two months did you not when you saw Joe Lynch? A When he came back from Kansas I was living at George Clark's place.
Q And the next time where were you living? A Where I live now.
Q How long had you been there when you saw Joe Lynch the second time? A Two or three months.
Q When did you go to where you are living now? A February I moved over there the first of the spring.
Q February, 1867? A Yes sir.
Q That is the story you want to tell the Commission is it? A That is what I have told.
Q I have not misled you have I? A No sir I guess not.
Q You want to tell the Commission that you moved over to where you are living now about the first of February, and you had been living there about two or three months when you saw Joe Lynch and his family? A Yes sir when they moved down.
Q When he came to where you are now living in the spring of 1867 who did he have with him? A His wife.
Q Who else? A His child.
Q Wife and one child? A Yes sir.
Q That is the child Hester? A Yes sir.
Q So far as you know Hester and her mother had not been in the Cherokee Nation after they had left during the rebellion until you saw them where you now live? A That is right so far as I know.
Q How was it that Joe Lynch came down and picked out a place?
A That is what he said.
Q Did he make any improvements or locate him a claim so far as you know? A Yes sir right where he lives.

Q Did he improve it? A Put some logs around it, made a foundation of logs around it.

Q Did he do that in three days time? A Yes sir I went and helped him.

Q Was that on the prairie? A Yes sir.

Q Was there any timber close there? A Yes sir right south of it.

BY MR McREA:

Q Do you remember that you stated in your examination in chief, when I asked you the question, when was the first time that you saw Joe Lynch in the Cherokee Nation, your answer was in the fall of '66, is that correct? A Yes sir.

Q Then I asked you when was the next time you saw him, and your answer was about the first of February, 1867?

Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to the leading questions that are being asked by the Attorney for the Applicant.

Commission: Objection noted.

Q Did you make that statement? A Yes sir.

Q When was the first time you saw Joe Lynch in the Cherokee Nation after the war? A Fall of '66.

Q How long did he remain in the Cherokee Nation at that time?

A About three days at my place.

Q Did you have any conversation with him? A I talked with him all the time he stayed there.

Q What did he say if anything with reference to coming back to establish his citizenship in the Cherokee Nation? A Said he come back home to located out a place.

Q Did he locate a place at that time? A Yes sir.

Q Do you know where? A Yes sir.

Q Is it the present place he lives on? A Yes sir.

Q When was the next time you saw him in the Cherokee Nation after the war? A In the spring, I don't know just what dates.

Q Where were you living when he returned to the Cherokee Nation the second time? A Right where I live now.

Q How long had you been living where you live now before Joe came back? A Not long, just a little while.

Q Did he bring his family with him at that time? A Yes sir.

Q Do you know what month it was that he brought his family to where you now live? A I don't know exactly.

Q How long did he stay with you at that time? A He stayed until he built him a cabin, there where he lives now.

Q That was in '67? A Yes sir.

BY MR HASTINGS:

Q You say that was about two or three months after you moved there from the George Clark place? A He stayed there two or three months with me.

BY MR. McREA:

Q It was two or three months before he moved to where he lives now? A Yes sir.

Q And you stated that you hadn't been where you live now very long until he come there? A Yes sir.

BY MR. HASTINGS:

Q You have testified that you moved over to this place from the George Clark place about sometime in February, 1867? A Yes sir.

Q You have testified that you were over there about two or three months when Joe Lynch came back the second time with his family?

Q Yes sir I was.

BY MR. BELL:

Q Was not there no other colored people living around there?

A Crap and Art.

Q Did they come to see Buzzard? A Yes sir they lived at the old bosses place, got it from Lon Lynch.

BY MR. HASTINGS:

Q You are positive that this child Hester was born in Kansas, and that they brought it down here with them? A Yes sir.

Q About how old was Hester when they come down? A I don't know.

Q About how old? A I can't tell she was a child.

Q Running around, walking and talking? A Sucking I believe.

Q Was she a year old? A I can't tell how old she was, I don't know that.

LEWIS LYNCH, being first duly sworn, testified as follows:

BY MR. MOREA:

Q What is your name? A Lewis Lynch.

Q What is your age? A Near about 50/

Q What is your postoffice address? A Spavinaw.

Q Are you a recognized citizen of the Cherokee Nation? A Claim to be, yes sir.

Q Is your name on the authenticated roll of 1880? A Yes sir.

Q Are you acquainted with Joe Lynch? A Know him by the name of Joe Buzzard, yes sir.

Q He is the same person present and an applicant for citizenship in the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life.

Q Did he belong to a citizen of Cherokee blood of the Cherokee Nation before the war? A Yes sir.

Q To whom did he belong? A To Joe Lynch.

Q Did he go out of the Cherokee Nation during the war of the rebellion? A Yes sir.

Q Do you know to where he went? A To Kansas.

Q Do you know when he returned back to the Cherokee Nation with reference to the treaty? A They said it was 1866, I was quite a boy and didn't keep records of the dates.

Q Did you see him in the Cherokee Nation after the war? A Yes sir.

Q What time after the war? A It was along in the winter.

Q Of what year do you remember? A They say it was '66, I kept no record of the dates at all.

Q Where did you see him in the Cherokee Nation? A At my father's

Q Who was your father? A Simon Lynch.

Q The gentleman who has just testified? A Yes sir.

Q Were you present when Joe Lynch came to your father's house?

A Yes sir.

Q How did he come? A Horse back.

Q How long did he remain at your father's house? A Two or three days not longer.

Q Did he say anything with reference to coming down for the purpose of establishing his citizenship of the Cherokee Nation at that time? A I didn't hear him at that time.

Q Where did he go to after he left your father's house at that time? A The old folks said he went back to Kansas.

Q Did you see him in the Cherokee Nation after that? A Yes sir.

Q About how long after the first time you saw him? A It was along in the spring the next time.

Q Of the next year? A Yes sir.

Q Where did you see him then? A In Saline District.

Q At what place? A At my father's where we lived, we had moved out of Delaware District into Saline District.

Q Did he bring any one besides himself at that time? A He brought his family.

Q How many persons did it consist of at that time? A Two to my best knowledge, they were his wife and daughter.

Q Was it his present wife? A Yes sir.

Q Do you know the name of the daughter? A Hester.

Q Hester who? A Hester Foster now.

Q Did he at that time begin making preparation for a permanent location in the Cherokee Nation? A Yes sir the last time he come he did.

Q Where did he make that location? A In Delaware District.

Q The place where he now lives? A Yes sir.

Q And that was in the spring you say of '67? A Yes sir to the best of my knowledge, I don't know anything about the dates, but it was the next spring after I saw him first.

Q Where did he make his home while making preparation for the place? A With my father and mother.

Q How long did he stay there? A I disremember just how long.

Q But you do know that he moved from your father's place over to the place where he now lives? A Yes sir.

Q Have you known him to be continuously in the Cherokee Nation ever since that time? A Yes sir.

Q You are close neighbors are you not? A About two and a half miles.

BY MR. HASTINGS:

Q Joe Lynch, the applicant, is an uncle of yours is he not? A Yes sir.

Q You never took the stand to testify for him before have you? A No sir.

Q You don't know very much about this you saw? A No sir.

Q You only know the dates they told you they were, that is all you are attempting to testify to? A Yes sir.

Q You know what date Mr. Wallace made a roll of Cherokee Freedmen? A No, sir.

Q Do you know when that big freedman payment was made? A Which one.

Q The last one? A No sir, I don't.

Q You don't know when Kern-Clifton made a roll? A No sir.

Q What year were you married? A I don't know that.

Q Are you a married man? A Yes sir.

Q Got some children? A Yes sir.

Q What is the date of the birth of the first one, William? A I don't know.

Q You don't know no years do you? A No sir not particularly.

Q You and your father and the attorney for the applicant talked over this case to what you were going to testify to? A No sir.

Q Never mentioned it? A No sir.

Q Never said anything to Mr. McRea outside? A No sir.
Q He never talked to you about what you knew about the case?
A Yes sir, but not on the outside.
Q Inside of the room then? A Yes sir, outside is outside and inside is inside.
Q He went over it with you and your father? A Yes sir.
Q And your father told you about what he knew about it in your presence and you testified to the same thing? A No sir, I didn't.
Q You don't know the year do you? A Which year.
Q When you first saw Joe Lynch? A No sir, they claim it was in 1866.
Q They claim it and that is all you know about it isn't it?
A Yes sir.
Q Where was you born? A In the Cherokee Nation.
Q Where was you living when Joe Lynch moved his family down there?
A In Saline District.
Q On whose place? A Simon Lynch's place.
Q Same place you are living now? A Same place he is living.
Q He was living right there when he moved his family down where he is living now? A Yes sir.
Q Are you sure he had one child? A That is all I remember.
Q You remember that one? A Yes sir.
Q If Joe Lynch swears that he didn't have that child, he is mistaken isn't he? A I suppose he is.
Q Do you know he is? A Yes sir if he swears that he didn't have it when he come.
Q About how old was Hester when they moved there? A I don't know.
Q You remember they had a child, how big was it? A A good big child, large enough to be walking.
Q Walking? A Walking, yes sir.
Q Talking? A I don't know about that.
Q Did he come the next time in a wagon? A Yes sir.
Q Do you remember what kind of horses he had? A No sir.
Q They didn't tell you yesterday about that sorrel team? A No sir.
Q Didn't you hear your father say that? A No sir.
Q Your father told you yesterday that he had moved from one place to another? A No sir.
Q Didn't tell you that? A No sir, I know that.
Q But you don't know what year you moved? A No sir.
Q You don't know anything about the years? A No sir.
Q You don't know a single year in which a single one of your children were born, do you? A Yes sir.
Q What year was the first one born? A I couldn't say exactly.
Q Then you don't know do you? A No I don't know that I could positively say now.
Q You don't know what year only what they said when Joe Lynch come back do you? A No sir.
Q You don't know what year you moved to the place where your father lives now, only what you were told? A No sir.
Q How long had you been living there when Joe came back? A Not quite a year we moved there in the winter and the next spring I saw Joe Lynch.
Q Simon had been living where he lives now for about a year when Joe came back? A No sir not a year.
Q About how long? A Moved over in the winter and I saw Joe the following spring.
Q How long had your father been living there when Joe brought his family? A Might have been three or four months.
Q Is that your best judgement? A Yes sir.

- Q Had you put in corn? A No sir.
Q Fixing to put in corn? A Yes sir.
Q Do you know what month your father moved there? A No sir.
Q You don't know what year? A No sir.
Q What year is this? A I don't know exactly.
Q You don't know what year you were born in do you? A No sir.
Q How many children have you? A Three.
Q What year was the second one born in? A I don't know.

W. A. WEST being first duly sworn, testified as follows
on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A W. A. West.
Q What is your age? A 63.
Q What is your postoffice address? A Spavinaw.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Have you always lived, with the exception of the war, in the Cherokee Nation? A Yes sir.
Q Is that in Saline District? A Yes sir.
Q Were you in the army during the war? A Yes sir.
Q Where did you settle first after the war? A My permanent house was on the road there, on the Military road north of Grand River there where I lived.
Q When did you settle there? A About 1867, commenced it in '67. and finished it that winter, I commenced in the summer like getting out the lumber.
Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Do you know where he now lives? A Yes sir, I presume I do, at the same place where he has lived, I havn't been at his house lately.
Q You have been at his house? A Yes sir, I have been there often.
Q It is claimed that he lives at the same place? A Yes sir.
Q How far is that from where you formerly lived? A It is about two and a half miles or three miles, somewheres along there, I always called it about two miles.
Q I will ask you if you knew him when he lived there that near you? A Yes sir.
Q When did he first come back to the Cherokee Nation after the war? A To the best of my recollection he come back in 1868.
Q Were you living at this place you had made? A Yes sir.
Q And you commenced that in 1867? A Yes sir.
Q What time in '67 did you commence that place? A I commenced getting out the lumber along in the spring and summer and I lived in a tent on the same road about a quarter from that place.
Q Were you living in the house when you saw this applicant? A Yes sir.
Q Where was he going? A He said he was going from Kansas, coming there to make a home in the Cherokee Nation and he inquired at my house where Simon Lynch lived?
Q Did you direct him to where Simon Lynch lived? A Yes sir, I told him Simon Lynch lived across the river somewhere about the old Lynch farm.
Q Was Joe Lynch in a wagon? A Yes sir.
Q Did he have the members of his family with him? A He had his wife and one child, as well as I remember.
Q Do you remember what kind of a team he had? A He had just a common pony team.

Q Was your house on this old Military Road? A Yes sir right along the edge of the road.

Q When did you get that house completed, was you moved into it?

A I moved into it in the fall of 1867.

Q And it was not until after that time that he come along in a wagon inquiring for Simon Lynch? A No sir in 1868.

Q You think it was the next year? A Yes sir the next year, and may be the following.

Q And it couldn't have been earlier than 1868? A No sir, nor later '68 is the year as well as I remember.

Q Was any one else along with him in the wagon besides his family.

A No sir.

Q He said he was from Kansas, did he? A Yes sir.

Q And he was inquiring the way to Simon Lynch's? A Yes sir.

Q He didn't know then at that time where Simon lived? A No sir. I reckon not by his inquiring.

Q This same Simon that you have seen here as a witness in this case? A Yes sir the same Simon.

BY MR. McREA:

Q You have testified in this case once before havn't you?

A Yes sir.

Q And you havn't any improvement to make by way of testimony on what you have already testified to? A No not that I know of.

Q Do you know where Simon Lynch was living in 1866? A Across the river.

Q He was in the Cherokee Nation in 1866 was he? A Yes sir.

BY MR. HASTINGS:

Q Do you know of Simon Lynch's having been convicted of stealing hogs? A I have heard he was convicted.

Q In the Cherokee Courts? A Yes sir.

Q Sent to the Cherokee penitentiary? A Yes sir.

JOE L. THOMPSON being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. HASTINGS:

Q What is your name? A Joe L. Thompson.

Q What is your age? A 66

Q What is your postoffice address? A Vinita.

Q Are you a Cherokee citizen by blood? A Yes sir.

Q Where do you live, you don't live in the town of Vinita do you?

A 12 miles south of Vinita.

Q How far from Grand River? A About three miles.

Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.

Q Did you remain in the Cherokee Nation during the war? A No sir.

Q Where did you go, south? A Went to Texas.

Q What year did you return after the war? A I came back in the winter of '67, I came to Fort Gibson.

Q When did you land up there near where you live on Grand River?

A In the spring of '66 I come to the place where I now live and made a crop, in the spring of '69 I moved on the Arsena place.

Q Do you know where the applicant, Joe Lynch, now lives? A Yes sir.

Q How far does he live from you? A About three miles I guess.

Q Was he living there when you came back? A No sir, not to the best of my recollection.

Q Do you remember of his coming back there? A It was the best of my recollection, that he moved there to that place about 1869.

You say he wasn't living there when you returned? A No sir.

Q And you came back yourself in the early spring of 1868? A Yes sir.

Q Was he living there when you come back in 1868? A If he was I didn't know it.

Q What is your best judgement? A He was not living where he is now.

Q It is plain to him that he settled there the first place that he settled in the Cherokee Nation? A The best of my recollection is he never moved to the place where he lives until 1869.

Q Was that the first you saw of him in the Cherokee Nation after the war? A Yes sir.

Q Did you know him before the war? A Yes sir.

Q Did you know his owner? A Yes sir his owner was my uncle.

Q Where was you living in 1869 when you first saw this applicant?

A On what was called the Arsena Place.

Q How far from Simon Lynch's? A About four or five miles the way you have to go I reckon.

Q You feel positive that this applicant was not there when you first came back in 1868? A No sir there was no improvements there when I come back in 1868.

Q Do you know Simon Lynch? A Yes sir.

Q Do you know of his being convicted of stealings hogs in the Cherokee Nation? A No sir.

Q You have heard of it? A If I did, I don't remember it.

Q You lived there in Tahlequah District? A Yes sir.

BY MR. McREA:

Q I understood you state that you did not return to the Cherokee Nation until sometime in 1867 is that right. A Yes sir.

Q Where were you in '66? A I guess I was in Texas.

Q If Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866 and his testimony is born out by Ed Lynch and Simon Lynch, are you prepared to say that it is not true? A I havn' said so.

Q You would not say so would you? A I was not here in 1866.

Q You have testified in this case before, havn't you? A I don't know, I guess so.

Q And you are not now prepared to add nor detract anything from the statements you first made in the case, at this time are you?

A No sir, I don't know that I am.

G. W. CLARK being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

Q What is your name? A G. W. Clark.

Q What is your postoffice address? A Vinita.

Q Are you a Cherokee citizen by blood? A Yes sir.

Q Were you in the Union army during the war? A Yes sir, I served nearly three years in the army.

Q When was you married? A I was married on the 8th of June, 1865.

Q Just after the war? A Yes sir, eight days after I was mustered out of the service.

Q Where did you first settle down after the war? A Upon the river in the neighborhood of where I live now.

Q Up in the north end of Saline? A Yes sir, it was Saline then but it is in Cooweescoowee now I think.

Q That was just across the river from the north end of Saline?

A Yes sir, I lived on the west side of the river, I made a crop there in '66.

Q Where did you make a crop in '67? A I moved in the fall of '66 along in December to another place about ten or twelve miles from there, the place where I was, to a place in Delaware District known as six mile bottom.

Q Near the old Joe Lynch place? A Yes sir.

Q On which side of the river? A On the same side, west side.

Q That was in the fall of '67? A No sir, fall of '66.

Q Where did you live in the year of 1867? A I lived there four or five years.

Q Continuously? A Yes sir.

Q Did you know the applicant, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.

Q Did you know him before the war? A I saw him but I don't say that I was acquainted with him.

Q You knew his owners? A Yes sir I knew old Uncle Joe Lynch.

Q Was he a relative of yours? A No sir.

Q Do you know where this applicant now lives? A Yes sir, I am well acquainted with the place, about two to two and a half miles from where I lived four or five years ago.

Q You moved up there in the fall of '66? A Yes sir.

Q And you lived there four or five years? A Yes sir, may be six.

Q When did he move back to this place after the war? A The first I recollect of seeing him I seen him at old man Simon's place old man Simon in the fall of '66 lived on my place in this six mile bottom, after I moved there I let him have some house and lived there that winter and early in the spring of '67 he moved to what is known as the old Joe Lynch bottom.

Q You mean Simon? A Yes sir, I loaned him a yoke of steers to do the breaking he did there.

Q How long was it after you moved to this place before you saw Joe Lynch at Simon's? A I didn't see him there for a couple of years.

Q How long was it after you moved to this place where you moved in '66 before Joe Lynch came there and make this improvement?

A My recollection is that he didn't make this improvement the first year after I come there.

Q You think the first time you saw Joe was at Simon's? A That is the first time I saw him.

Q Where was Simon living then? A Where I located him on the east side of the river.

Q That was on your place? A No sir.

Q And you think that was to your best judgement, 1868? A It was 1868 or '69.

Q And you owned the place where Joe Lynch afterwards built? A Yes sir.

Q Were you acquainted with the country before he built there?

A Yes sir, that was on the road there where I did the most of my passing.

Q Did you travel the road frequently? A Yes sir.

Q About how far did Joe Lynch the applicant located from this road? A He located on a little ridge about 150 or 200 yards from the road, it may have been more or less.

Q The place could be seen easily from the road could it? A Yes sir.

Q Nothing in the way? A He built his house there on the prairie

Q You know Simon Lynch who has testified in this case? A Yes sir, I am well acquainted with him.

Q Do you know of his having been convicted up there in the Cherokee courts for stealing hogs? A I had moved away from there then, but I heard of it.

Mr McRea: We object to heresay.

Commission: Objection noted.

Q It was the common report was it? A He was convicted no common report about it.

Q What official positions have you held, you have been a member of the Cherokee Senate and Cherokee Council a number of times?

A Yes sir I was in office sixteen years, I have----

Q Also on the circuit bench? A Yes sir, eight years.

Q Solicitor of Saline District? A Two years.

Q And you were in the Union Army? A Yes sir, in the third regiment.

Q And your best judgement is that Joe Lynch came back in '68 or '69? A That is when I saw him.

Q And you were living there in that same neighborhood, and he located out there on a little prairie near the road that led to the store at which you traded, and where there was a black smith shop? A It was a big prairie, three or four miles across the neck of it, it reaches from there I expect to Chetopa. From my place back there is a woodland hilly place until you get down to where the house was, and there was a little prairie there where I lived but he lived on the main big prairie.

BY MR. BELL:

Q The place that you stayed up there in six mile bottom, was that that Dirteater place? A It was known as the Jim Daniel's place before the war, I bought it from the estate.

Q How is that six mile bottom situated with reference to the river. A The river bends around it.

Q The river is on three sides of it? A Yes sir.

Q Now in getting from your house to this store you speak about, there was only one road? A Yes sir just one road.

Q There would have been no way of getting to your store by a road except by taking another road that didn't go in that direction. A No sir it went north.

Q But you went west from your house to the store? A Yes sir. Nearly due west according to the section road.

Q That was the only road with a direct route to the store? Yes sir.

Q That road passes then 150 or 200 yards of the place that Joe Lynch built? A Yes sir, and I think he is living there yet.

Q The McCrary store was at the Kell place? A Yes sir.

Q It was the only trading point in that immediate neighborhood?

A Yes sir, the only one anywhere around there.

Q If Buzzard had this house built there in '67, you think you would have seen it? A I know I would because there was a little circumstance there, me and Walker Daniels got after a bull right there where he built that house, and right over the swag there there in running him up there, he runed past him and the bull killed his horse or mare, hooked his insides out.

Q That was in '67? A Yes sir.

Q There was no house there then? A No sir the first that was built was built this side of there. That was before he put that up on the left hand side of the road as you went, a colored fellow fellow by the name of Bony Daniels, and the next was the house that Joe Lives in.

Q Then there was no other houses therein that country right then? A No sir, no other house, I made a claim right across the next ridge and I let Andy Frye have that.

Q Nobody living in there? A No sir.

Q Indians or nobody else? A Nobody at all.

Q And it was in '68 or '69 before you discovered Buzzard there in this house? A My opinion is he didn't build a house there in '69, and he stayed a year in the bottom before he built a house.

BY MR. McRea:

Q When was the first time that you saw Joe Lynch in the Cherokee Nation after the war? A It was over at Simon's in '68 or '69, I think '69.

Q You are not positive as to which? A No sir.

Q Now where was he when you saw him at that time? A He was in and around Uncle Simon's there on the place, he come in there with a pony team, and had a wife and child.

Q Were you present when he came? A No sir.

Q That was what you heard? A There wasn't but a few people there and when a man dropped in the neighborhood we knew he was a stranger, it wasn't settled like it was now, wasn't many people in the country.

Q Where was you living in the fall of '66? A I moved on this place that we were above referring to in that bottom east of where Joe Lynch built his house.

Q How far with reference to where Simon Lynch lived at that time in '66 on your place? A There were two houses on the place he occupied, one of the houses from the house I lived right across the hill north, I expect it was 150 or 200 yards, one of the houses that he was in, that he kept one of his wives in. He kept another house, I will tell you about that. It was about a quarter of a mile south of the place and he kept his other wife there.

Q Are you prepared to dispute the statement made by Simon Lynch and Joe Lynch, that Joe Lynch came to Simon Lynch's place where he was living in the fall of '66 on horse back? A If he did I didn't see him.

Q He come have come through without your having seen him, couldn't he? A I guess he could have without my seeing him, by coming in the night and going away.

Q Answer yes or no? A He could have come, but I never seen him.

Q I understood you to say in your examination in chief that you had no special acquaintance with Joe Lynch before the war?

A No sir, that is right.

Q Then the first time that you ever seen him to know him was sometime in the year 1868 or '69, is that correct? A Yes sir.

Q He could have been in and around Simon's at the time he said without your knowing him in view of the fact that you had no acquaintance with him? A He couldn't have been around there very much because I watched everybody pretty close them times.

Q Sometimes? A All the time.

Q You had no acquaintance with his family? A No sir, the first time I saw his wife she was at Simon's and had a child, and then they had one regular every year.

Q You never testified before in this case? A No sir.

Q You knew all about the facts that you are testifying to now in 1901 and 1902, didn't you? A Yes sir, of course I would have, I come acquainted with them in '67 and '68.

Q You knew these facts at the time the applicant made his application for enrollment? A Yes sir.

Q And you were not called upon at that time to testify? A No/sir.

Q When was the first time that your attention was called to the fact that you would be required to testify in this case, Mr. Clark? A I don't know, think it has been more than three or four weeks ago that I received a notice from the Commission that I was summons here in this case, and it read like I had testified in the case. I was very well acquainted with this fellow. He was hard up and we furnished him milk all of the time, my wife and I, and she knew him better than I did, he carried milk from our house all the time, we treated him as well as we could.

Q Do you know how long Joe had been at Simon Lynch's at the time you first saw him in '68 or '69? A No sir, I couldn't say the exact time, might have been a week or two maybe longer.

BY MR. HASTINGS:

Q I believe you stated that you people sort of kept a watch on the people who came into the country immediately after the war?

A Yes sir.

Q It was necessary in those days, was it not? A Yes sir, very necessary.

Q And for that reason you knew about everybody that came around in your neighborhood? A Yes sir, I watched everybody.

Q You knew when you first saw Joe Lynch over at Simon's that he was a newcomer? A Yes sir, there was but a few of us and we knew when a new man came there.

BY MR. McREA:

Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866, are you prepared to state upon your own knowledge that he didn't return up there up there at that time?

A No he didn't return up there, I aint prepared to say in the fall whether he returned there or not.

Q You don't know whether he did or not? A No sir.

BY MR. HASTINGS:

Q You know you never heard of him returning there in the fall of 1866? A No sir.

BY MR. McREA:

Objected to for the reason that it is incompetent, irrelevant and inadmissible.

COMMISSION: Objection noted.

BY THE COMMISSION:

Q When did you first come up to that neighborhood where you are living now and where Joe Lynch lives now? A I aint living there now.

Q You went there after the war? A I went there several times in the summer, I think I traded for the place along in August, during the summer of '67. Summer of '66 after this Treaty was made on the 19th of July, 1866.

Q You moved up there close to where Joe Lynch now lives in December, 1867? A '66.

Q December, 1866? A Yes sir.

Q You knew Mr. Clark where Simon Lynch was living when you moved up there, did you? A Yes sir, I let him move over there on my place, after I got it.

Q From your knowledge of the people and condition as they were and the nature of the country, can you state to this Commission positively that Joe Lynch and his family did not come to that neighborhood in the Cherokee Nation until about 1868? A 1868 or '69.

Q If at any time after December, 1866, the applicant and his family had come to that portion of the Cherokee Nation, you think you would have known it? A Yes sir, known it after a day.

Q You don't know as to whether or not Joe Lynch himself might not before at Simon Lynch's horse back in the fall of '66 and stayed three days as they claim? A Might have been at Simon's, but he wasn't living there in the fall, he was over at the other place about six miles from there, he might have been there. This road that I told you that runs to this trading point, he lived about a mile from that down in the bottom, right above where the Military road crossed Cabin Creek.

Q How far from where he lives now? A I suppose it is four or five miles on a direct line now since the lines were run out.

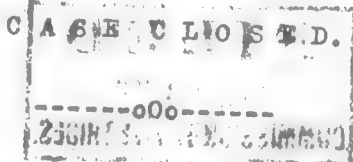
Q Did you ever have a conversation with Joe Lynch shortly after his first trip to the Cherokee Nation after the war? A No sir.

Q You never heard him say whether or not that was his first trip? A I don't know as I ever did.

Q Do you know whether in the fall of 1866 that he made any foundation of a house? A He never made none there where he is living now.

Q How old was this child that Joe Lynch and his wife brought there with them? A It seemed to be his wife's lap.

Q A year old probably? A I don't think it was a year old. I don't think he let them get a year old before he had another one.



H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct copy of his stenographic notes thereof.

H. M. Vance.

Subscribed and sworn to before me this 14 day of December, 1904.

(SEAL)

Charles H. Sawyer,
Notary Public.

Opal Griggs being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she made the above copy and that the same is a full, true and correct copy of the original transcript.

Opal Griggs

Subscribed and sworn to before me this 20th day of December, 1904.

Charles H. Sawyer
Notary Public.

FILED
DEC. 9. 1904
COMMISSION TO FIVE TIMES

✓
Cherokee Freedmen D-386

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. , November 18, 1904.

SUPPLEMENTAL PROCEEDINGS in the matter of the application for the enrollment of John Lynch as a Cherokee Freedman.

It appears that on the 13th day of October, 1904, the applicant, his attorney and the attorneys for the Cherokee Nation were duly notified by letter that each of them would be given an opportunity to appear before the Commission at its offices in Muskogee, Indian Territory, on the 18th day of November, 1904, and introduce testimony touching the points mentioned in said letter.

APPEARANCES:

No appearance on behalf of Applicant.
Cherokee Nation represented by Jas. S. Davenport.

By. MR. DAVENPORT:

The Cherokee Nation asks that the record in the case of Joe Lynch, Cherokee freedmen D-576, be made a part of the record in the case of John Lynch, Cherokee Freedman D-386.

Lucy M. Newman, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the proceedings had in this case and that the above is a full true and correct transcript of her stenographic notes thereof.

Subscribed and sworn to before me this 30 day of Nov 1904.

Charles H. Sawyer
Notary Public.

A. F. No.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Joe Lynch, et al., as Cherokee Freedmen, consolidating the appli-
cations of:

Joe Lynch et al.	Cherokee Freedmen	D	376
Robert Foster,	"	"	D 522
Hester Foster et al.,	"	"	D 383
Arthur Lynch,	"	"	D 384
Cyrus Lynch	"	"	D 385
John Lynch	"	"	D 386
Vina Benton et al.,	"	"	D 387
Nancy Curle et al.,	"	"	D 429
Rachel Downing et al.,	"	"	D 430
Nartha Lynch et al.,	"	"	D 1077.

-: D E C I S I O N :-

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Joe Lynch for himself and wife, Sophia Lynch, and minor children, Eliam, Cynthia J. (Jame), Randolph, Ruth and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle J. (Jame), Ethel J. (Jame) and Josephine Foster; thereafter, on October 20, 1902, there was filed with this Commission an affidavit showing the birth, on March 20, 1902, of Arthur Foster, child of the applicant, Hester Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and illegitimate minor child, Lela Harrington; by Walter Downing for himself, and

wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; thereafter, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 26, 1902, of Herbert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Lee B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Lee B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Herbert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on Motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 18, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane) Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Lee B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said appli-

cants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Herbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, John and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curis and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedman enrollment cards No. D 429 and D 1077, it appears that one John Buffington is the father of the said applicant, Lula Buffington, and that one Watson Hicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Lee B. (Bennett) Lynch. But one John Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 558-R 271), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Hicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I. T. D. 844-04), William Foster (I. T. D. 1468-04) Minnie Duncan, et al. (I. T. D. 1470-04), Samantha Chambers (I. T. D. 2296-04), Ed Williams (I. T. D. 4230-04), Martha Albert, et al. (I. T. D. 4732-04) and Moses Ross (I. T. D. 6056-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Hester Foster, James Foster, Pearl J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and John Lynch, Vina Benton and Stella Benton, Nancy Curis, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Lee B. (Bennett) Lynch, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the Act of Congress below noted; and that Herbert Downing

should be enrolled as a Cherokee freedman, in accordance with the provisions of section twenty-one of the Act of Congress approved June 25, 1906 (34 Stat. 495), and it is so ordered.

ADMINISTRATIVE TO THE FIVE CIVILIZED TRIBES.

(Signed) John W. Taylor
Commissioner.

(Signed) T. E. Woodley
Commissioner.

(Signed) H. E. Pratt
Commissioner.

Done at Muskogee, Indian Territory,
this 15 day of July 1908.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al.,
for enrollment as Cherokee freedmen, consolidating the applications
of:

Joe Lynch et al	Cherokee Freedmen D 376
Hester Foster et al	Cherokee Freedmen D 383
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Benton et al	Cherokee Freedmen D 387
Nancy Curle et al	Cherokee Freedmen D 429
Rachel Downing et al	Cherokee Freedmen D 430
Martha Lynch et al	Cherokee Freedmen D 1077.

D E C I S I O N .

The record herein shows that applications for enrollment, as Cherokee freedmen, were made to this Commission by Joe Lynch for himself, his wife, Sophia Lynch, and minor children, Eliza, Cynthia, J., Randolph, Ruth and Jackson Lynch; by Hester Foster for herself and minor children, James, Pearlle J., Ethel J. and Josephine Foster; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission showing the birth of Arthur Foster; by Arthur Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and minor child, Lula Buffington; by Walter Downing for himself and wife, Rachel Downing; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Herbert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Martha Lynch for herself and minor children, Jessie M. and Lee B. Lynch.

The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitacre, trustee, et al., vs Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1865 and are descendants of and, with the exception of Herbert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of some of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Herbert Downing was born April 26, 1902; that he is the son of Walter Downing who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored," and that the said Walter Downing, father of said Herbert Downing, has continuously resided in the Cherokee Nation since 1880.

It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Hester Foster, James Foster, Pearlle J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Vina Benton, Stella Benton, Nancy Gula, Lula Furrington, Rachel Downing, Martha Lynch, Fessie M. Lynch and Lee B. Lynch as Cherokee freedmen should be denied under the provisions of section twenty-one of the act of Congress approved June 25, 1906 (34 Stat., 225), and it is further the opinion of this Commission that the said Herbert Downing should be enrolled as a Cherokee freedman, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Signed.	Tams Bixby,	Chairman.
Signed.	T.B. Needles,	Commissioner.
Signed.	C.R. Breckinridge,	Commissioner.
Signed.	W. E. Stanley,	Commissioner.

Muskogee, Indian Territory,

July 28, 1904.

F. D. 386

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
day of..... A. D. 1901.

Given under my hand this
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
12 day of Sept, 1901.

A. S. McLean
Attorney for applicant.

UNITED STATES OF AMERICA, } s. s.
INDIAN TERRITORY, }
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A. D. 1901

Subscribed and sworn to before me
this..... day of..... A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 12 1901

[Signature]
ACTING COMMISSIONER

NOTICE!

IN THE MATTER OF The application of Jno. Lynch
for enrollment as a Cherokee Freedman:

Case No. F. D. 386

To Jno. Lynch or McRea

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: 1st. Oct. at 8 o'clock A. M.
A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 12th day of Sept., 1901.

L B Bell

Attorneys for the Cherokee Nation.

FD 386

E

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. John Lynch,
Winita, I. T.
Cherokee F-B-300.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

VB. J. J. 386.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 22 1901

[Signature]
ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date *May 22, 1901*
 Post Office *Vinita, Ok.*
 District *Oklahoma*

1. Name *John Lynch* Age *24*
 Owner's name _____ Citizenship _____
 Year *Walker* Page *129* No. *2572* District *Del.*

Parents:
 Father *Joe Lynch - living* Citizenship _____
 Mother *Josephine* - " - " Citizenship _____

2. Name of wife _____ Age _____
 Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____
 Parents:
 Father *Robert* Citizenship _____
 Mother _____ Citizenship _____

Names of Children:

	Year	Page	No.	Dist.
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

Robert

Application made by *M. I.* Stenographer *E. J. Rothman*

X Ref. D 376
W. McRhea atty. for applicant

COPY.

Cherokee Freedmen
D 386

Muskogee, Indian Territory, May 17, 1904.

John Lynch,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., rejecting, among others, your application for the enrollment of yourself as a Cherokee freedman. There has this day been forwarded to your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

James D. Dixby.

Encl. V-38

Register.

Chairman.

Copy

Cherokee Freedmen
D 376, et al.

Haskell, Indian Territory, May 17, 1904.

A. S. McKee,

Attorney for Joe Lynch, et al.,
Haskell, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 384, 385, 387, 429 and 430, together with a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch, Foster, James, Pearl J., Ethel J., Josephine and Arthur Foster, Arthur Lynch, John Lynch, Vina and Stella Benton, Nancy Carlis, Lula Buffington and Rachel Downing, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 376 and 383.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

James D. Dyer

Chairman.

Encl. V-44
Register

Cherokee Freedmen
B 276, et al

Waukegon, Indian Territory, May 17, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Joe Lynch, et al., including the Commission's decision dated April 20, 1904, granting the application for the enrollment of Herbert Downing as a Cherokee freedman and rejecting the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Bath, Jackson, Arthur and John Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Vina and Stella Denton, Nancy Curle, Lula Buffington, Rachel Downing, and Martha, Jessie M. and Leo E. Lynch as Cherokee freedmen.

Respectfully,

Fannie Dixby.

Encl. V-48

Chairman.

Through the
Commissioner of Indian Affairs.

Refer in reply
to the following:
Land.
33874-1904.

(C O P Y)

CFL

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

July 18, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized tribes dated May 17, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Joe Lynch for himself, his wife, Sophia Lynch and his five minor children, Eliza, Cynthia J. Randolph, Ruth and Jackson Lynch; of Hester Foster for herself and her four minor children, James, Pearlina J. Ethel J. Josephine and Arthur Foster; of Arthur Lynch for himself; of David Benton for his wife, Vina Benton, and minor child, Stella Benton; of Nancy Curle for herself and her minor child, Lula Buffington; of Rachel Downing for herself and her minor child, Herbert Downing; and by Martha Lynch for herself and her minor children, Jessie M. and Leo B. Lynch.

March 5, 1904, the Commission decided that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that none of the applicants are identified on the 1899 authenticated Cherokee roll, but all who were then living are found on the roll of citizens of the

Cherokee Nation; that the applicants, Joe Lynch and his wife Sophia Lynch were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and returned prior to February 11, 1867, established a home and have resided in the Cherokee Nation to the date of the record. The other applicants are descendants of Joe and Sophia Lynch and their sole title to enrollment is derived from them. The only question in the case appears to be when Joe and Sophia Lynch returned to the Nation, and the testimony of Joe Lynch is sustained by that of Allen Lynch and Anderson Lynch who swear that he returned prior to February 11, 1867.

On the part of the Cherokee Nation, C. L. Lynch testifies that he did not see the principal applicant, Joe Lynch, until 1901; Joseph L. Thompson that he did not see him until 1868; Walter A. West, did not see him until 1868.

The witness, Rees Craven, introduced by the Cherokee Nation, swears that he knew Joe and his wife, Sophia Lynch in Iola, Kansas, from 1866 to 1874 or 5, and they had twenty-two children at that time. The testimony of this witness is not satisfactory and in pertinent particulars he appears uncertain.

It appears that the Cherokee Nation conceded from the testimony of their own witnesses that Joe Lynch was in the Nation in 1866 with his wife, Sophia and Children, and as it is shown in evidence that Sophia was but seventeen years of

ago at that date, the testimony of the witness, Brown, that
and had twenty-two children at any time when he asserts that
he knew them, between 1865 and 1870, is a manifest falsehood.

In view of the record it is recommended that the Com-
mission's decision adverse to the applicants be reversed,
and the applicants enrolled as Cherokee freedmen.

Very respectfully,

A. C. Turner

Acting Commissioner.

M.M.M.
W.

3 encl.

COPY.

J.P.

D.C. 28621-1904.
I.T.D. 9794-1904.
L R S

JHE

DEPARTMENT OF THE INTERIOR,

WASHINGTON, July 21, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

July 18, 1904, the Acting Commissioner of Indian Affairs submitted the Cherokee freedman case consolidating the applications of Joe Lynch, et al; Hester Foster, et al; Arthur Lynch; John Lynch; Vinn Benton, et al; Nancy Curle, et al; Marshal Downing et al; and Martha Lynch, et al, and recommended that your decision adverse to the applicants be not concurred in and that you be directed to enroll such applicants.

Accompanying the papers is a motion for a rehearing, filed in the Indian Office by Joe Lynch for himself and the other applicants who claim through him, with letter from George P. Togle, of Vinita, Indian Territory, of June 8, 1904, which is not mentioned by the Acting Commissioner.

The Department does not feel warranted in reversing your decision upon the testimony presented.

The motion for rehearing bears no evidence of service upon the attorney for the Cherokee Nation, but in view of the showing made thereby, and particularly of the recommendation of the Indian Office, the Department deems it advisable to order a rehearing in the case, and the same is hereby directed.

A copy of the Acting Commissioner's letter, and the testimony with papers attached, also the application for rehearing with affidavits attached, are inclosed.

Respectfully,

(Signed) Thos. Ryan.

Acting Secretary.

3 inclosures.

Cherokee Freedmen

D-386.

Muskogee, Indian Territory, August 10, 1904.

John Lynch,

Vinita, Indian Territory.

Dear Sir:

You are advised that the Commission is in receipt of departmental letter of July 21, 1904, remanding the Commission's decision of April 30, rejecting, among others, your application for enrollment as a Cherokee freedman.

It is stated in said letter that the Commissioner of Indian Affairs recommends that the Commission's decision be reversed and the applicants be enrolled as Cherokee freedmen, and according to instructions contained therein you are hereby advised that you will be allowed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Monday, September 19, 1904, and introduce the testimony of such witnesses as you may be able to procure in support of your said application.

Respectfully,

Register.

Commissioner in Charge.

COPY.

Cherokee Freedman,
D-266.

Muskogee, Indian Territory, October 13, 1904.

A. S. McRea,

Attorney for John Lynch,

Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for enrollment of John Lynch as a Cherokee freedman, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Friday, November 18, 1904.

The said John Lynch has this day been notified that he will be permitted to appear on said date and introduce such testimony as he may desire in support of said application.

Respectfully,

Register.

(SIGNED) *T. B. Needles.*
Commissioner in Charge.

COPY

Cherokee Freedman,
B-186.

Muskogee, Indian Territory, October 13, 1904.

John Lynch,

Vinita, Indian Territory.

Dear Sir:

In the matter of your application for enrollment as a Cherokee freedman, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Friday, November 18, 1904, at which time you will be permitted to appear and introduce such testimony as you may desire in support of your said application.

Respectfully,

(SIGNED) I. B. Needles.
Commissioner in Charge.

Register.

COPY.

Muskogee, Indian Territory, December 12, 19

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Vinita, Indian Territory.

Gentlemen:

There is herewith enclosed copies of supplemental proceedings had in the following Cherokee Freedman Enrollment Cases on the date indicated.

November 15, 1904.

Howard Bushyhead, Cherokee Freedman D-980.

Jacksie Ann Markham, et al., Cherokee Freedman R-346.

November 17, 1904.

Martha Washington, Cherokee Freedman R-343.

November 18, 1904.

Eliza A. Arnold, Cherokee Freedman D-74.

Rachael Graves, Cherokee Freedman D-1131.

John Lynch, Cherokee Freedman D-326.

Mary Gunter, et al., Cherokee Freedmen R-166.

George Ames Hayfield, et al., Cherokee Freedmen R-5.

November 19, 1904.

Daniel Beach, et al., Cherokee Freedmen 40.

November 21, 1904.

Louis Rogers, et al., Cherokee Freedmen R-37.

Melvina Williams, et al., Cherokee Freedmen D-1073.

Calvin Goins, et al., Cherokee Freedmen R-179.

November 22, 1904.

Charlotte Potts, et al., Cherokee Freedmen R-238.

November 23, 1904.

Eliza Robinson, Cherokee Freedmen D-161.

Nancy Fairfield, et al., Cherokee Freedmen R-326.

November 17, 1904.

Chasley Rowland, et al., Cherokee Freedmen R-335.

Respectfully,

Encl. 00 19.

(SIGNED).

Tams Bixby.

Chairman.

COPY.

Cherokee Freedmen

D-386.

Muskogee, Indian Territory, June 16, 1905.

John Lynch,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for your enrollment as a Cherokee freedman. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

SIGNED: *Tame Dig.*
Chairman.

Incl. S-86
Register

py.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

A. S. McRea,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Hubert Downing, and rejecting, among others, the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Tams Dixby.
Chairman.

Incl. 8-31,
Register

COPY:

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 2-33.

(SIGNED).

Tame Bixby
Chairman.

COPY.

Cherokee Freedmen
D-276, et al.

Muskogee, Indian Territory, June 16, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee freedmen, including the Commission's decision dated June 16, 1905, granting the application for the enrollment of Hubert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

On July 21, 1904, the Department remanded this case for rehearing and readjudication.

Respectfully,

Incl. S-34.

Through the

Commissioner of Indian Affairs.

(SIGNED) *Tame Bixby.*
Chairman.

Cherokee F.
D-386

Muskogee, Indian Territory, January 18, 1907.

John Lynch,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the Cherokee freedmen enrollment case of yourself, et al., filed by your attorneys September 7, 1905, denied.

Respectfully,

JMH

Commissioner.

Charles F.
D-376 et al.

Muskogee, Indian Territory, January 18, 1907.

Blue & Bulger,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed by you September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. N-54
JMK

Commissioner.

Cherokee F.
D-376 et al.

Muskogee, Indian Territory, January 18, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed September 7, 1906, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. N-55
JWH

Commissioner.

DEPARTMENT OF THE INTERIOR, LLS

D.C. 1778-1907
 I.T.D. 8180-1908
 8906-
 8528-
 8737-
 8738-

WASHINGTON.

LMS

Commissioner to the Five Civilized Tribes,
 Muskogee, Indian Territory.

Sir:

July 11, 1908 (Land 47227), the Indian Office submitted the record in the matter of the application for enrollment as Cherokee Freedmen by Joe Lynch for himself and wife, Sophie Lynch, and minor children, Eliza, Cynthia Jane, Randolph, Ruth, and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle Jane, Ethel Jane, Josephine, and Arthur Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Ethella Benton; by Wacey Curle for herself and illegitimate minor child, Lula Buffington; by Walter Downing for his wife, Rachel Downing, and his minor child Herbert Downing, and by Martha Lynch for herself and her illegitimate minor children, Jessie May and Lee Bennett Lynch, including the decision of the Commission to the Five Civilized Tribes dated June 15, 1908, favorable to Herbert Downing and adverse to all other applicants.

There appears to be no proper reason for granting said motion, and it is hereby denied.

The Department concurs in the recommendation made, and the Commission's decision is hereby affirmed.

The papers in the case, including said motion for review, have been sent to the Indian Office for its files.

Respectfully,

Thos Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 Inc. and 3 to Ind. Of.

Cher. Fr. R-883

Trans. from Cher. Fr. D 387

Cher. Fr. R-883

File with Cherokee Freedman D-387, *Vina Benton*

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Joe Lynch for the enrollment of himself and wife and five children as Cherokee Freedman; being sworn and examined by Commissioner Breckenridge, he testified as follows:

- Q Give me your name? A Joe Lynch.
Q How old are you? A I guess about 80 years old.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Delaware.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A Yes sir, mine.
Q Any children? A Yes sir.
Q How many? A I have got the names and ages. (Freedman paper)
Q You have six children under 21 years of age have you? A Yes sir.
Q The oldest one of these six is Viney? A Yes sir.
Q Are any of this six that we are talking about married? A No sir.
Q How long have you lived in the Cherokee Nation? A All my life, bred and born here.
Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
Q Give me the name of your father? A I don't know him, I never did see him.
Q Give me the name of your mother? A I don't know her, but she was named Viney; but she is dead.
Q Been dead many years? A Yes sir.
Q To whom did you belong before the war? A Joe Lynch.
Q He was a Cherokee citizen? A Yes sir.
Q You were his slave at the beginning of the war? A Yes sir.
Q Give me the name of your wife? A Sophia.
Q How old is your wife? A I guess she is about 45 years old.
Q When were you and she married? A I couldn't say when we did marry, hardly.
Q Well, how long ago? A Yes sir.
Q Before any of these children were born? A Yes sir.
Q She must be more than 45? A She must be more than that.
Q Is she the mother of your oldest child? A Yes, sir.
Q That child is 52? A She must be older than that than I guess.
Q Maybe about 50 isn't she? A Yes.
Q You know the name of her father? A No sir.
Q Did you know the name of her mother? A Yes sir.
Q What is it? A Her mother was named Chaney Ross, she is dead.
Q Has she been dead very many years? A Yes sir.
Q More than 20 years? A She died time the war was going on, I think.
Q To whom did your wife belong? A Belonged to Susan Ross.
Q She was a Cherokee citizen? A Yes, sir.
Q And your wife was a slave in the Cherokee Nation when the war started? A Yes sir.
Q Now these six children for whom you apply, the oldest one is named Viney? A Yes sir.
Q That child is 19 years old, isn't she? A Yes sir.
Q Then Eliza is that the next one? A Yes sir.
Q She is 18 years old, isn't she? A Yes sir.
Q Cynthia Jane, that's the next one isn't it? A Yes sir.
Q She is 16 years old? A Yes sir.
Q Then comes Randolph, is that it? A Yes sir.
Q Randolph is 15, is that right? A Yes sir.
Q Then comes Ruth? A Yes sir.
Q She is 15 isn't she? A Yes sir.
Q Then comes Jackson, he is 11 isn't he? A Yes sir.

Q And that's your last one? A Yes sir.
 Q Are those children all living now? A Yes sir.
 Q Are you on the 1880 roll? A No sir.
 Q None of your family on the roll of 1880? A No sir.
 1880 authenticated roll of citizens of the Cherokee Nation
 examined and applicants not found.
 1880 census roll of citizens of the Cherokee Nation
 examined and applicants not found.
 Q One of your family on the 1880 roll? A No sir.
 Q Did you have any money for yourself and family at the big
 payment? A No sir, I drew at the first payment.
 Q Then none of you are on the Kerna-clinton roll? A No sir.
 Kerna-clinton pay-roll of citizens of the Cherokee Nation
 examined and applicants not found.
 Wallace roll of citizens of the Cherokee Nation examined
 and applicants identified as follows:
 Page 188 #2584 Joseph Lynch, Delaware District;
 Page 183 #2523 Sophia Lynch, Delaware Dist;
 Page 125 #2596 Vina Lynch, Delaware Dist.

Q Now to roll clerk: Vina is the last one you have got there?
 A Yes sir.

Q Why are you not on the roll of 1880? A Well sir, I couldn't
 tell you how come I wasn't on.
 Q Neither you or your wife, did you apply to have yourself put
 on that roll? A Yes sir.
 Q And they wouldn't put you on, either one of you? A No sir.
 Q Did they tell you why? A No sir.
 Q Well then none of you are on the roll of 1880? A No sir, I
 guess not.
 Q Do you know the reason of that? A No sir.
 Q Why did they refuse to put you on the Kerna-clinton roll, all of
 you? A I couldn't tell you that, only when I asked them they said
 it was just through an oversight.
 Q Where did you go during the war? A I went to Kansas.
 Q Did your wife go with you? A No sir.
 Q Did she ever go to Kansas with you? A Yes sir, she went after I
 did I think, or a little before; she was a little bit of a girl.
 Q I just want to know whether she went to Kansas with you?
 A No sir.
 Q Where did you marry her? A In Kansas.
 Q You have got a child named Hester? A Yes sir.
 Q Where was that child born? A They were all born and raised here.
 Q I asked you about Hester, was Hester born in the Cherokee Nation?
 Hester wasn't, Hester was my baby.
 Q Well, where was Hester born? A I believe she was --
 Q Born in Kansas? A Yes sir.
 Q Hester is 33 years old now? Is she? A I guess so, I don't know
 the age myself.
 Q That is the age you have got on this memorandum? A Yes, I got
 a fellow to put the age down, just had to make a guess of it.
 Q Where was Nancy born? A Born here in the Cherokee Nation. Out
 here on the Delaware, right where I am living at.
 Q All these other children where were they born? A All of them
 was born right there.
 Q In the Cherokee Nation? A Yes, sir.
 Q Your wife didn't go to Kansas when you went there? A No sir.
 Q You were married to her when you went to Kansas? A No sir.
 Q When did she go to Kansas, when did you see her up there?
 A I saw her there along in '88.
 Q Where did you see her? A I saw her there about Allen County,
 up there.

Q How long did you know her before you and she got married?
 A I guess I must have known her about 5 or 7 years I guess.
 Q Did you know her before she went to Kansas? A I know her
 people, they lived right down below where...
 Q I am asking you if you knew her? A Yes, I knew her, she was
 a little bit of a girl then.
 Q You knew her before she went to Kansas? A Yes sir.
 Q How long had she been in Kansas before you married her, how long
 was it after she got there before you married her? A I guess she
 had been there, I expect about four years.
 Q She had been there about four years and then you and she married
 there? A Yes sir.
 Q How old was your child, Hester, when you and your wife came back
 to the Cherokee Nation? A Oh she was just a young thing, just a
 little bit of a baby.
 Q Only a few months old? A Yes sir.
 Q How long after you married your wife before Hester was born?
 A It wasn't long.
 Q More than a year? A No sir, I guess it was less than a year,
 nine months before she was born I guess.
 Q So you and your wife came back to the Cherokee Nation less than
 a year after you were married? A Yes sir.
 Q Because Hester was born and was a baby some months old? A Yes
 sir.

It now being the noon hour the Commission adjourned until
 1 o'clock pm.

M. D. Green, being first duly sworn, stated that as Commissioner
 to the Commission to the Five Civilized Tribes he correctly prepared
 the testimony and proceedings in this case and that the foregoing is a
 true and complete transcript of his stenographic notes thereof.

Signed, M. D. Green.

Subscribed and sworn to before me this May 22, 1901.

Signed, C. H. Breckinridge,
 Commissioner.

It now being the hour of one o'clock P.M. May 22nd 1901, and
 the Commission having been called to order, the application for the
 enrollment of Joe Lynch et al. is continued as follows:

F. V. Hastings for the Cherokee Nation.
 A. S. McRae, attorney for the applicants.
 C. H. Breckinridge, Commissioner presiding.
 C. A. von Walze, Stenographer.

JOE LYNCH, the applicant herein, recalled and examined as
 follows by Commissioner C. H. Breckinridge:

Q I understand that you desire to make a correction in your testi-
 mony given in this morning? A Yes sir.
 Q Then you testified that your child Hester was born in Kansas?
 A Yes, sir, I made a mistake there.
 Q You testified, as I recollect it, that the child Hester was born
 in Kansas and was a few months old when you came from Kansas and
 she got and came into the Cherokee Nation? A Yes sir, but she was
 born in the Cherokee Nation, all of them was born here, I just made
 a mistake this morning.
 Q Did you bring your wife back from Kansas? A Yes sir.
 Q When you first came back from Kansas, did you bring your wife
 with you? A Yes sir.
 Q Do you mean to say that you don't remember if she brought a young
 child with her? A Well when I first came I first came to...

horseback and didn't bring her with me.

By Com'r Breckinridge: I want to warn you that you have made some very positive statements in regard to your coming here after the war and that when you testified this morning you said that you were positive that what you first came back to the Cherokee Nation from Kansas after the war that you brought your wife with you and that she had a baby in her arms at the time that was born in Kansas just a few months before you started, and now you come and desire to change all that and I simply desire to warn you that you are under oath and that you are to consider well what you intend to swear to for if you do not swear the truth you are liable to get yourself into trouble, very serious trouble in fact.

Q You say now that when you came here the first time from Kansas directly after the war, that you came by yourself on horseback and that your wife was not with you then? A No sir, she was not.

Q And you also desire to correct your statement of this morning wherein you stated that when you and your wife came down here from Kansas, she had a baby in her arms? A No sir, she did not, I made a mistake in that, the baby was born since then, she was born in the Cherokee Nation.

Q You say now you first came by yourself? A Yes sir, on horseback to look out a location.

Q When did you come here by yourself, and where did you come to?

A On Grand river pretty close to where I am living now, and located me a place.

Q When was that? A November of '60.

Q Did you come down there then to prepare a place for yourself and family? A Yes sir, for me and my wife.

Q What work did you do there that time? A Located up a claim and laid the foundation for me a house.

Q What else did you do? A Never did nothing else then.

Q How long did you stay there before you went back to Kansas?

A Not very long.

Q Did you stay there until spring? A No sir, maybe a week or two.

Q And then what did you do? A Then I goes back and gets my woman and comes down and builds my house.

Q What time was it you say you first come there? A It was in November.

Q How did you bring your wife when you come with her? A In a wagon.

Q Just you and your wife? A Yes sir.

Q Nobody else? A No sir.

Q Did you go right back to Kansas and get your wife and bring her right straight back here? A Yes sir.

Q Your daughter Vina is married is she? A Yes sir.

Q So you made a mistake there also when you said this morning that the children you applied for were all under age and living with you at this time? A Yes sir I made a mistake there, Vina is married, she has not been married very long and I had forgotten that she was.

By Com'r Breckinridge: So the application for her will not be continued, as she will have to apply for herself or be applied for by her husband.

By A. S. McGee, attorney for the applicant:

Q Mr. Lynch, you say that you were born in the Cherokee Nation?

A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where to? A Kansas.

Q When did you return to the Cherokee Nation? A In '60 in November.

Q Where did you first come to the Cherokee Nation when you returned the first time from Kansas? A I located right where I am living now, on the river in Delaware district in the Territory.

Q In the Cherokee Nation? A Yes sir.

Q Who were your owners before the war? A Joe Lynch.

Q You say that you laid the foundation of your house previous to

the moving of your family, your wife, from Kansas, when you came here that first time by yourself on horse-back and then went back and got your family? A Yes sir went back for my woman.

Q How long had it been before you returned to the Cherokee Nation after you got back to Kansas that time? A I cant tell just exactly - I dont know just how long - it has been so long that I had done forget just the exact time.

Q Was it in December of the same year or in the January of the next year, in 1867 - was it in December of '66 or in January of '67, in other words, how long did you stay in Kansas before you came back to the Cherokee Nation after you had been here and located your claim and laid the foundation of your house preparatory to moving your family here, and then went back up there? A I dont think I was in there more than two months before I returned here with my wife.

Q Have you lived in the Cherokee Nation continuously ever since that time that you came back here with your wife? A Yes sir.

Q Did you and your wife belong to the same parents before the war?

A No sir, my wife belonged to Susan Ross.

Q Were you and she married before the war? A No sir.

Q When were you and she married? A After the war.

Q After the war closed? A Yes sir after the war closed.

Q Is your name on any of the authenticated rolls of the Cherokee Nation? A No, sir, not been able to find it on that, but it is on the Wallace roll.

Q Can you tell why it is not on the roll of 1880? A No sir I dont know.

Q Did you make application for enrollment then? A Yes sir I applied as a Cherokee Freedman when the census takers come round to the houses then.

Q Did you get on the roll then? A I cant tell if they put me on then or not, if they did they scratched me off again.

Q Was you rejected that you know of? A No sir.

Q You say you have lived continuously in the Cherokee Nation ever since November of December of 1866 up until now? A Yes sir I has lived here ever since then till now.

By W. W. Hastings, Cherokee Representative:

Q You were in here before dinner were you not? A Yes sir.

Q And you testified then that you brought your family with you when you came back from Kansas - your wife and one child? A No sir I did not bring any child, I made a mistake then: I dont know what I did say then.

Q You have found out since going to dinner and talking with your lawyer, that the age of your eldest child would be enough to have her born here, in other words, that she could not be the age you give in for her, and be a month or two old at the time you say you come back from Kansas - in '66? A No sir I haint talked it none, I just made a mistake in giving in the ages, I remembers now that that child was not borned then, she was borned after we got here.

Q Wasn't that oldest child born in Kansas before you come back to the Cherokee Nation? A No sir, it wasn't.

Q You testified that it was didn't you before the Kerns-Clifton Commission some five years ago? A No sir not of it being born in Kansas.

Q Didn't you swear then that you brought that child back with you when you and your wife come to the Cherokee Nation from Kansas right after the war? A No sir I dont know what I testified there.

Q Didn't you testify before the Kerns-Clifton Commission that you had this one child when you left Kansas after the war to come to the Cherokee Nation and that you brought it with you? A No sir I never told them fellers that.

Q You never swore that? A No sir.

Q Where did you live before the war? A Well sir, I lived in

Saline district with Lon Lynch's father.

Q You have seen Lon Lynch around here, the one that lives on Grand river, haven't you? A Yes, sir, that is my young master.

Q He was living there when you came back wasn't he? A No sir, I was in Flint.

Q Didn't he live in Flint? A I don't know where he lived then.

Q Was he living in Saline? A I was not in Saline.

Q Didn't you come back to the old Joe Lynch place? A No sir, I come back and located on this side of the river from the old place.

Q Didn't you swear before the Kerns-Clifton Commission that you come back to the old Lynch place? A No sir, I never.

Q Immediately going back to the old place then? A I told you that I never went there.

Q Who were your neighbors there? A Daniel Sandrum.

Q Who else? A Davis.

Q What Davis? A I don't know nothing but Davis, he was a full blood Indian.

Q Where did George Clark live? A Well George Clark lived away up there on Grand river.

Q How far from you? A Well I don't know exactly, I can't tell how many miles it was.

Q He wasn't your near neighbor then? A No sir.

Q Didn't you testify before that he was? A No sir.

Q Do you know Watt West? A Yes sir.

Q How far did he live from you then? A I never seed him then.

Q How long after that before you saw him? A I don't know exactly.

Q How far does he live from you now? A 15 or 16 miles as near as I can tell.

Q Where did you make your first crop after you got back from Kansas?

A The first crop I made was on a little bit of land I had rented from a full blood Indian.

Q What was his name? A Joe Dirteater.

Q Was that in Saline or Delaware? A That was in Saline.

Q How far from where you now live? A 4 or 5 miles, I don't know exactly.

Q Do you live in Delaware district now? A Yes sir.

Q How long did you stay in Saline, before you moved to Delaware district? A I never lived there at all, I just rented a piece of ground there and went over on horse back and worked it.

Q So you have lived practically on the same place that you now live ever since your return from Kansas? A Yes sir.

ALLEN LYNCH, called and sworn by Commissioner Breckinridge, testified as a witness on the part of the applicant:

Examined by Commissioner Breckinridge:

Q What is your name? A Allen Lynch.

Q How old are you? A 31 about.

Q What is your postoffice? A Winita.

Q How long have you lived in the Cherokee Nation? A Might say all my life.

Q Do you know the applicant there, Joe Lynch? A Yes sir.

Q How long have you known him? A We were born and raised on the same place.

Q You have known him practically all your life then? A Yes sir.

Q Did you know him during the war? A Yes sir.

Q Where did you see him during the war? A We were soldiers together and were both in the same regiment.

Q When were you discharged after the war? A In '65.

Q Where were you discharged? A At Leavenworth.

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Q When did you see him after that? A We came to Neosho Falls together in '65 and I left him there in that winter, reckon about Christmas and came back here to the Nation.

Q Are Neosho Falls in Missouri? A No sir in Kansas.

Q Where did you locate him in the Nation on coming from Neosho Falls? A On the east side of Grandriver.

Q How long did you stay at that place? A Until some time in March.

Q Of what year? A '66.

Q On the east side of Grand river? A Yes sir.

Q Then where did you go? A Moved right down here to the mouth of this creek here.

Q Gabbins creek? A No sir, where Bull creek runs into Gabbins.

Q How long did you stay there? A Raised a crop there, a crop of corn, and staid there until June or July.

Q You say you staid on the east side of Grand river until March of 1866? A That was when I first moved over here.

Q You spoke of going first, when you got back, to a place on the east side of Grand river, when did you get there? A The first day of February '66.

Q How long did you stay there? A 7 or 8 days.

Q And then you come over here to Bull Creek, is that right? A Yes sir.

Q How long did you stay at this place at the mouth of the Creek? A We staid there until along in June or July.

Q Of what year? A '66.

Q Then what did you do? A We moved down to what was called the old Ark Simmons place.

Q Where is that? A About a mile from the old Lewis Hall place.

Q How long did you stay there? A We staid there until some time maybe in October, can't tell exactly.

Q Was it of the same year? A Yes sir.

Q Then where did you go? A Went to the Six Mile Bottom on Morarie's place.

Q How long did you stay there? A ~~XXXXXXXXXXXXXXXXXXXX~~ I don't know exactly - George Clark bought the place and we moved off.

Q Was that the same year? A Yes sir.

Q Where did you go to then after you left the place George Clark bought? A Went to the Dr. Thompson place.

Q Still in '66? A Yes sir.

Q How long did you stay there? A Until some time along in '67, cant tell exactly.

Q Was it in the summer or fall? A I left there in the summer of '67.

Q You say that you left Joe Lynch up on Neosho Falls? A Yes sir.

Q When did you see him again after leaving him up there? A I saw him while he was living on this Six Mile Bottom, he came down there to see his brother in law Simon, and to locate him a place.

Q Six Mile Bottom of what creek or river? A Grand river.

Q On which side of the river? A The west side.

Q Did he pick himself out a place there? A Yes sir.

Q Is that the place he is living on now? A Yes sir.

By A. B. McKee:

Q Do you know Mr. Lynch, when Joe Lynch came to this place that you speak of to seek him out a location, do you know when it was? A It was in the fall of '66.

Q Well you have known him to have lived in the Cherokee Nation continuously ever since he first moved to that place have you not? A He has never moved off of it since he came there.

By W. F. Hastings:

Q When did he move here with his family? A He got here with his family in '67.

Q Was it in the fall? A In the spring or summer.
Q How long did he stay when he first came? A Week or ten days.
Q Then did he go back? A Yes sir.
Q He had no means then did he - nobody had any at that time did they? A No sir, not much.

Q Was he a horse-back or foot the first time you saw him? A He was horse back when he came there to look up a claim.

Q How many children did he have when he came in the following spring or summer with his family? A I cant remember just exactly, must have had three, four, five or six, I cant know just how many.

Q Did they come in wagons that time? A Yes sir

Q When he did come back with his family, where did he move to?

A Right on the place where he lives now.

Q He never went back to the Joe Lynch place? A No sir, right where he lives now.

Q Is that in Delaware district? A Yes sir, right close to Guss's.

Q How far is that from the old Joe Lynch place where he used to live before the war? A 4 or 5 miles.

Q In the same neighborhood though? A Yes sir.

By A. S. McKee:

Q Are you acquainted with the children of Joe Lynch? A Well, yes sir, I cant give the names of them all, I cant count them all, he cant ever count them; I know them but I dont know their ages and cant give all their names. He cant even do that himself.

Q Have you any knowledge of your own how old the oldest one of his children is? A No sir, I cant tell.

Q Are you acquainted with the oldest one? A I know them all but I cant tell nothing about their ages, I lives there in two miles of them but I cant tell nothing about their ages.

Q Were they all born here in the Territory? A I think he brought two of them with him from Kansas when he came here first.

Q When he moved here with his family you mean? A Yes sir.

Q Were the others all born here? A I think they was.

Q You dont know which ones were born in Kansas? A No sir, I think though that Hester - a girl - and the other one - I don't know - I dont know of any others was born there or not; The others though was all born right there where he lives. I dont know how many he brought with him from Kansas.

Q Is the one that you referred to by name the oldest one? A Yes, sir, that I know of.

Q You dont know of they have any older ones or not? A No sir I dont know.

By the Commission:

Q This place that you say that you saw Joe Lynch the first time when he came here to locate him a place, when he came here first on horse-back, was that in what you call Six Mile Bottom? A No sir, it was on the prairie, right on top of the prairie.

Q You were living then yourself on the Six Mile Bottom? A Yes sir I was about four miles below there.

Q And when you next saw him it was in the following summer? A Yes sir.

Q When he was moving his family? A Yes sir.

Q Did he move them all to this place near Six Mile Bottom? A Yes sir.

Q How far from where you lived was this place? A Must have been 4 or 5 miles or maybe six miles.

Q Were you at his place when he got there? A No sir, he was there when I saw him, he was right there.

Q How long had he been there when you first saw him and his family? A I can tell you that.

Q But that is the first time you saw him after you saw him on horse back by himself the year before? A Yes sir.

Q You dont know if he had just come or not? A No sir I never asked him.

Q Do you remember when he married in Kansas, or were you present

at the time? A No sir I wasn't there; he married in '85 or '86, because we both belonged to the same regiment and was stationed out together and I left him there and during the time I kept him there he married.

ANDERSON LYNCH, called and sworn by Commissioner C. R. Brock-inridge, as a witness, testified as follows on the part of the ap-plicant: (Examined by Com'r Brockington.)

Q What is your name? A Anderson Lynch.

Q How old are you? A I am about 34.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A I was born and raised here.

By A. S. McKee.

Q Are you acquainted with the applicant, Joe Lynch? A Yes sir.

Q How long have you known him? A All my life.

Q Did you see him here in '85? A Yes sir.

Q What time of the year was it that you saw him? A It was in the fall o' '86.

Q Where was it that you saw him? A It was right there on the river, he was making a claim where he is now living.

Q Did you know him before the war? A Yes sir.

Q Who did he belong to? A To Joe Lynch, the same man I saw.

Q Are you acquainted with his wife? A Yes sir, a little, I have seen her in Kansas.

Q When did you see her in Kansas? A In '85, when I first got ac-quainted with her.

Q Were they married then? A Yes sir.

Q Do you know when Joe Lynch went back to Kansas for his family after he had first been here to locate him a claim? A Yes sir it was in the winter, and I think that he went up here to George Menden and had to stay a while and never got back here until in the winter of '87.

Q And did he then bring his family and locate where he is living now? A Yes sir.

Q Did they have any children born in Kansas? A They had one that I remember of, a girl.

Q What is its name? A Hester.

Q Was she born in Kansas? A Yes sir, I know she was.

Q How old was she when she came here from Kansas? A I don't know exactly.

Q Of your own knowledge, has Joe Lynch lived in the Cherokee Nation continuously ever since he came here in '86? A Yes sir.

By W. W. Hastings:

Q Have you ever been tried for anything? A Oh yes I has been tried.

Q What for? A I has been tried for murder.

Q What was done with you? A I was acquitted.

Q Ever been tried for anything else? A No sir.

Q You know Joe Lynch before the war did you? A Yes sir, we was raised together.

Q Where did you live at the time that you say Joe came back here in the fall of '86? A On Lynch's Prairie, and heard of him being over there and came over to see him.

Q Is Lon Lynch your young master? A Yes sir.

Q And you say that Joe brought back his family from Kansas to the Cherokee Nation in the fall or winter of '87? A Yes sir, it was in cold weather.

Q He had one child then that you remember? A Yes sir, he didn't have any children with him the first time he came, he came the first time on horse-back by himself.

Q I mean when he brought his family - his wife? A Yes sir.

By A. S. McKee:

Q You are a Cherokee citizen are you? A Yes sir.

APPLICANT, re-called and examined by the Commission:

Q How did you get at the ages of these children that you handed in on this slip of paper? A I got a man to put them down.

Q Who told him the ages to put down? A I did, I just had to guess at it: I didn't know their ages exactly and had to guess at it, and he put them down as I said I thought they was.

Py W. Hastings:

Q Is your wife living? A Yes sir.

Q Where was this list made out? A It was made out over at home.

Q Was your wife present when it was made out? A Yes sir she was

Q You talked with her about these ages didn't you? A No she can't count now; I talked with the man that put it down; of course she was standing there listening to me.

Q You are sometimes known by a nick-name are you not; as Joe Buzzard or Joe Lynch? A Yes sir.

C. L. LYNCH, called and sworn by Commissioner C. H. Breckinridge, testified as follows on behalf of the Cherokee Nation:
(Examined by Com'r Breckinridge)

Q What is your name? A C. L. Lynch.

Q What is your age? A 30.

Q What is your postoffice? A Stillwell, I. T.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life.

Q Do you know the applicant here, Joe Lynch? A Yes sir.

Q Did he belong to your father before the war? A Yes sir.

Q And at the time of the war? A Yes sir to the war to my father's estate.

Q Do you know what became of this man during the war? A He went to Kansas.

Q Did his wife Sophia belong to your father? A No sir, I am not acquainted with his family.

Q Do you know when this man came back to the Cherokee Nation after the war? A Not exactly.

Q What do you know of his coming back? A Well I came back myself in the winter of '66 and '67, in January or February.

Q And when did you first see this man after the war? A The first time I saw him since the war was to-day a week ago.

Q Just a week ago? A I never saw him from then until last Tuesday a week ago.

Q Do you know where he lives near Six Mile Bottom? A Yes sir I have been to his house three or four years back, but he was not at home, I have not seen him since '68 until last week.

Q Then you have no knowledge of your own as to when he came back from Kansas to the Cherokee Nation? A No sir, I came back myself in '67 and stopped in Flint district and was going backwards and forwards from Flint to my old place in that year of '67, and I found some of the negroes there, but Joe Lynch had not come in yet in '67.

Q Did you pass by where he is living now in your wanderings back and forth? A No sir he was not here then.

Q I mean did you pass by that locality where he now lives? A Yes sir I was well acquainted with the country round there.

Q Was you by there in your rounds in 1867? A Yes sir I was all around there and there was no house there then.

Q In 1867 did you go by the exact spot where this man now lives? A I don't know that I did go by the exact spot, but I was round through the country there, backwards and forward.

Q What time in 1867 were you there? A I got back in February of 67

Q Was you right there where this man now lives in February of 67?

A I don't know that I was right where he lives.

Q What time in 67 were you in that neighborhood? A I went around through there frequently.

Q Were you there in the fall or summer of 67? A I was right across

the river then, from the place where this man says he lives.

Q Did you go through that neighborhood in the summer or fall of '67? A I don't remember if I did go through the exact place that this man lives at but I was on the other side of the river, just opposite two or three miles from there.

By W. V. Hastings:

Q You passed by his place about three years ago you say? A Yes sir about 3 or 4 years ago, I went to his house but I did not see him as he was not at home.

Q About how far is that place from your old place? A Well I guess it is about 3 or 4 miles.

Q On which side of the river was your old place? A On the south side.

Q Of Grand river? A Yes sir.

Q When did your father die? A In 1861.

Q About the time the war came up? A Yes sir.

Q Did your father leave any property in that neighborhood in the way of farms and improvements? A Yes sir, left all his property there.

Q That were you doing up there in '67 after you returned to the Cherokee Nation? A I came back and found our old place sold under the confiscation act and another man living on it, and I was up around there to look after it and the property my father had left.

Q How much of your time did you spend in that neighborhood in '67?

A Well I lived some of the time in Cooweescoowee district on Grand river, I had some folks living there, and then I lived in Flint off and on during '67.

Q You say you never saw this man Joe Lynch in that neighborhood any time during that year? A No sir.

By the Commission:

Q How far is Joe Lynch's home from your father's old home? A 5 or 6 miles.

Q Have you lived at your father's old home ever since the war?

A No sir.

By A. S. McRea:

Q When you came back for your interests in '67, you were only looking after your own interests and nothing else were you not? A Yes sir I was just looking after my property there.

Q You don't know whether or not Joe Lynch was at the place that he states he was or not at that time? A He was not there.

Q You are positive that he was not there? A Yes sir.

Q I understood you to say that you never went to the exact spot where he now lives until about three years ago? A There was no place there at all at that time.

Q That was a very isolated country up around there then was it not?

A Yes sir it was not settled up much then, not so many there as there are now by my means.

Q It is possible that he could have been around there when you first come there and you not have seen him, is it not? A Oh yes it is possible.

Q Then he might have been there and you not have run across him?

A He might.

By the Commission:

Q Did you see any of the rest of your father's slaves around there at that time? A Yes sir.

Q Did you visit them? A Yes sir, I saw them all that was there, at the old place.

Q Did you make any inquiry as to where the rest of them were?

A I inquired for Joe and the balance of them.

Q Did you dispose of that property that year or the next? A No sir I was the only one here at the time.

Q When did you get rid of it? A I cannot say positively, my brother and Col. Bell were administrators and they sold it when they got back.

JOSEPH L. THOMPSON, called and sworn by Commissioner G. R. Breckinridge, testified as follows on the part of the Cherokee Nation.
(Examined by Commissioner Breckinridge)

Q What is your name? A Joseph L. Thompson.
Q How old are you? A 62.
Q What is your postoffice? A Vinita.
Q How long have you lived in the Cherokee Nation? A All my life, except one year.

By W. W. Hastings:

Q When did you come back to the Cherokee Nation after the war?
A I got back to Cabin Creek in January, 1868.
Q Do you know the applicant, Joe Lynch? A Yes sir.
Q Do you know where he lives now? A Yes sir.
Q How far did you live from him then? A When I first settled there it was a mile and a half and now it is two miles.
Q Was he living there when you came back to the Cherokee Nation in '68? A No sir.
Q When did you say you returned? A January '68.
Q And he was not living there at that time? A No sir.
Q Did he move there since then? A Yes sir.
Q You were living then about a mile and a half from where he lives now? A Yes sir on what was then known as the Ashmeade place.

By A. S. McRea:

Q How long have you known Joe Lynch? A I have known him nearly all my life, he belonged to my uncle.
Q Do you know where he went to during the war? A No sir, he came from Kansas after the war, but I don't know where he was all during the war, Kansas though I suppose.
Q Did he leave here during the war? A Yes sir.
Q When did he leave? A I don't know.
Q When did he return to the Cherokee Nation after the war? A To the best of my knowledge he returned in '68.
Q Where was the first place that you saw him in '68? A Where he now lives.
Q How long had he been there when you first saw him? A Only a few days.
Q Has he been living there continuously since '68? A Yes sir, I have been living there myself ever since and I have never known of him moving away.
Q Can you state positively of your own knowledge whether or not he was here in the Cherokee Nation before '68? A He was not living where he now does before that.
Q How do you know that he was not living where he is now before that time? A Well I was over the prairie frequently and did not see him until about that time.
Q What kind of a country was it around there? A How do you mean?
Q Was it isolated and grown up with brush and timber or were there lots of settlements around there? A Well there were only a few people living around in that part of the country then.
Q Was it woods? A No sir he lived out on the edge of the prairie like
Q How far did you say you were living from where he does at the time you first saw him? A About a mile and a half.
Q Then you say you moved to another place? A Yes sir it was about two miles from his place.
Q Do you still live there at that place? A Yes sir.
Q Does he still live at the same place that you first saw him at?
A Yes sir.
Q How far long have you been living at the place you now live?
A 20 years or more, yes it has been longer than that.

WALTER A. WEST, called and sworn by Commissioner G. R. Breckinridge, testified as follows on the part of the Cherokee Nation:
(Examined by Commissioner Breckinridge)

Q What is your name? A Walter A. West.
 Q How old are you? A 80.
 Q What is your postoffice? A Spavinaw.
 Q How long have you lived in the Cherokee Nation? A All my life.
 By W. W. Hastings:
 Q Mr. West, where did you live the first few years after the war?
 A Ever here on the Military Road in Delaware district.
 Q Do you know Joe Lynche, the applicant here? A Yes sir.
 Q Do you know where he lived? A Yes sir.
 Q How far did you live from him at any time? A Well when he first came here after the war he lived two miles from me.
 Q When did he settle there? A He came there in the spring of '68 to the best of my recollection.
 Q Are you positive that he was not there before the year '68?
 A He was not there.
 Q How far did you live from him? A Two miles.
 Q How long had you lived there? A I moved there in the latter part of '66; during the first part of '68 I lived in close to Hatcher and then I lived near Port Scott Kansas and then I came down here and made a place and lived on it until in '69 and sold it to him and then moved to where I am now living.
 Q Then in '67 and '68 you were living near the old Military Road and near where this man lives? A Yes sir up to November '68.
 Q Where did this man first come to after the war, to the place where he now lives? A I saw him on the old Military Road and he said that he had come from Kansas, and he settled near there and made a place. I could see it from my house, it was just in front of it was close to what is now Mips place.
 Q And you say that was in the spring of '68? A Yes sir that was in the spring of '68.
 Q How long was it from the time you saw him on the old Military Road until he settled on this place? A That same spring that I saw him on the Military Road coming from Kansas.
 By A. S. Moran:
 Q Mr. West, how long have you known Joe Lynche? A I knew him before the war when he was a little boy called Buzzard.
 Q Where did he go to during the war? A I don't know.
 Q Did he leave the Nation during the war? A I don't know except that he told me that he went to Kansas.
 Q When did he leave the Cherokee Nation to go to Kansas if you know? A I don't know.
 Q When did he return? A In '68.
 Q How do you know that he returned in '68? A He came by my place and said he had come from Kansas.
 Q How was he traveling? A In wagons of course, there were no railroads through here then.
 Q Who was with him when you first saw him? A He was supposed to have his family with him.
 Q What family? A Wife and child is all that I saw.
 Q Where did he go to then? A Cross the river where he said he was going over among his acquaintances and relations and then he came back on this side and made him a place.
 Q When did he locate his present place, where he now lives? A In the same year, '68.
 Q Can't you possibly be mistaken? A I can possibly be mistaken, but that is my judgment.
 Q How long have you lived in the neighborhood where you are now living? A Ever since November 1869.
 Q Do you know anything about the character and nature of that country before '68? A Yes sir.
 Q What was the condition of it, open land or wood? Was it well filled up with settlements? A It was not as thickly settled as it is now there was some thick woods down in the bottom.

Q Was it a wild sort of country? A Well I guess you might call it sort of wild, there was lots of game in around there.

Q Are you positive that he was not located in around there before '88? A I did not see him until that time in '88.

Q Is it not possible that you might not have seen him around there and him yet be living there? A Well I don't hardly think it is for I was around through there pretty much hunting deer and could have run across him.

Q Is it possible that if Joe Lynch had been a deer that you would not have seen him there at that time on account of the isolated sort of country it was? A No sir, if I had had a Winchester with me it is not likely that he could have got away for I was pretty good at killing deer then days.

Q Is it not possible that he could have come back to the Cherokee Nation from Kansas before '88 and you not have seen him? A Yes it is, but the first time that I saw him was there on the old Military road coming by my place from Kansas, as he said, and that was in the spring of '88. He could not have come by there and settled where he now lives without my having seen him.

Q You don't know of your own knowledge when he did come back to the Nation? A I know that he did not come to where he now lives until in '89.

By the Commission:

Q You are not living in the same neighborhood now that you were when Joe Lynch came back? A No sir, I live six miles from him now and when he come back I lived two miles from him.

Q I understood you to say that when he come back the first time and settled that you were living two miles from where he settled?

A Yes sir.

Q That was within two miles of where he settled then and also where he now lives? A Yes sir.

Q When did you begin living on that place yourself - the one you were living on when you first saw the applicant here? A In the latter part of '88.

Q And you lived there I believe you stated, until the latter part of '89? A Yes sir until in November '89.

By A. S. McRea:

Q Is it not true that you never came to this particular place where you are living now until in '88? A I went there in November 1889.

Q I was speaking of the place where you lived before coming to the place you now live at? A I went there in '88 and made it my home and raised crops there until I sold it to Mip and moved away in '89.

JOE LYNCH, the applicant, recalled and examined by A. S. McRea:

Q Are you acquainted with Mr. Thompson who has just testified for the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life, ever since I was big enough.

Q Did you see him in '88 when you came to the Territory where you are now living? A No sir, I came by myself on horseback that time and never seed him.

Q When did you first see these witnesses? A Must have been in 87 that I seed him.

Q Where was it that you saw Mr. Thompson and Mr. West in '87?

A I saw Mr. West across the river.

Q And not at the present place where you are now living? A No sir when I came down there I never seed nobody.

Q When you brought your wife and family in a wagon did you see Mr. West as answers you did? A No sir I never.

Q Then he did not see your family and you? A No sir.

Q If you had seen him you would have had some recollection of it would you not? A Yes sir.

Q How long has Mr. West lived in the neighborhood where he now lives - did he live two miles from you when you first settled there?

A No sir he never lived there when I came there, he came and got a place close by there and lived there after that.

Q When was that? A In '67, when I was living there.

Q What time of the year, in January or in December or in the summer or what? A Long in March of '67.

Q Did you know Mr. West before the war? A Yes sir.

Q If you had met him in '68 you would have some recollection of it would you not? A Yes sir course I would.

Q Is the statement of Mr. West that he saw you passing his house on the old Military road with your family in a wagon in the spring of '68 true? A No sir that is not true.

By the Cherokee Nation, W. W. Hastings:

Q Mr. West was living within a short distance of you when you located there? A He was on a place there three or so miles from me, he was on the old Military road and I was near Grand river.

By A. S. McRae:

Q When did your permanent residence begin down there? A It commenced long in the winter when I commenced making my field.

Q In the winter of '66? A Yes sir.

By Sam's Breckinridge: The applicant applies for the enrollment of himself, his wife and six children: it is developed in the course of the inquiry that one of the children for whom he applies is married and his application is reduced to five children. It seems that the applicant was a slave in the Cherokee Nation and of a Cherokee citizen prior to, and at the breaking out of the war between the United States and the Confederacy. He appears to have enlisted in the United States army and to have gone to the state of Kansas, from which state he returned after the war. The applicant is not identified on the roll of 1860 or upon that of 1864, or upon the Kerns-Clifton roll, he is identified on the Wallace roll. He married in the state of Kansas, and in his first testimony states that he there lived until after the birth of his first child; that his wife had gone to the State of Kansas from the Cherokee Nation during the war, that she remained there four years prior to their marriage and that they returned to the Cherokee Nation one year after their marriage. The testimony relating to the time when his wife went to the State of Kansas is not present at this moment, it having been taken by another stenographer, but that can be inquired into later. The applicant subsequently denied that any of his children were born in the state of Kansas, but it is averred by other witnesses, including one of his own, that when he returned to the Cherokee Nation he was accompanied by one child, and one of the witnesses affirms that he was accompanied by more than one child. Witnesses who lived in the neighborhood in which the applicant located, according to his own testimony, immediately after his return, and at which spot he has continued to live ever since, affirm that he came there in the year 1866 with his family. The applicant affirms that he came there first on horseback in the fall of '66 and moved his family to this locality prior to the spring of '67. The testimony is very voluminous, but is referred to for fuller information in regard to its character. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card and the final decision of the Commission will be made known to him at his postoffice address. The applicant guesses his age at

TO THE DIRECTOR
JUL 28 1901

ACTING CHIEF OF BUREAU
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Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 22, 1901.

In the matter of the application of David Benton for the enrollment of his wife, Vina Benton, and child as Cherokee Freedmen; he being sworn and examined by Commissioner T.B. Needles, testified as follows:

A. E. McRae, Attorney for Applicant.

- Q What is your name? A David Benton.
Q How old are you? A 27.
Q What is your postoffice address? A Vinita.
Q What district do you live in? A Delaware.
Q Who do you apply to have enrolled? A Vina Lynch.
Q Is Vina Lynch your wife? A Yes sir.
Q Vina Benton is her name now, isn't it? A Yes sir.
Q How old is she? A She was 17 when I married her. She is twenty now.
Q Is she a Freedman citizen of the Cherokee Nation? A Yes sir.
Q What is her father's name? A Joseph Lynch.
Q What is her mother's name? A Sophia Lynch.
Q Are they living? A Yes sir.
Q Are you a citizen of the Cherokee Nation? A No sir.
Q You don't claim citizenship? A No sir.
Q Do you know whether your wife's name appears upon any of the rolls of the Cherokee Nation? A Her father says her name is on the Wallace Roll.
Q Have you any children? A One.
Q What is the name of the child? A Stella Benton.
Q Do you want to enroll the child? A Yes sir, my wife and child.
Q How old is Stella? A Two weeks old.

The 1880 authenticated roll, the 1896 census roll and the Kerna Clifton Roll examined and the names of the applicants not found thereon.

The Wallace Roll examined and the name of the applicant's wife is found on page 125, No. 2895, Vina Lynch, Delaware Dist.

- Q Is this child living? A Yes sir.
Q Your wife living at this time? A Yes sir.
Q When were you married to her? A About three years ago.
L. B. Bell: Has your wife lived here all the while? A Yes sir.
Q She never was out? A No sir.

David Benton applies for the enrollment of his wife, Vina, and his child, Stella. He avers that his wife Vina is the child of Joseph and Sophia Lynch. Upon examination, the records develop the fact that the name of his wife, Vina, is not found upon the authenticated roll of 1880, or the census roll of 1896, but she is duly identified upon the Wallace Roll by her maiden name, Vina Lynch. Her father Joseph Lynch, the records show is enrolled as a Cherokee Freedman upon B Card No. 376, and the testimony taken in the matter of his enrollment will be made a part of the record in the case at bar, and a copy of the same will be filed with the testimony now being taken. Satisfactory proof is made as to her residence. It will be necessary for applicant to file with this Commission satisfactory proof of birth of said Stella Benton, child of said Vina. Consequently, Vina Benton and her child, Stella Benton, will be listed for enrollment as Cherokee Freedmen on a doubtful card. In order to complete the enrollment of his child, Stella, it will be necessary for said proof of birth to be filed.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

C. J. McIntosh

Subscribed and sworn to before me this 28th day of May, 1901.

W. H. Harrison
Commissioner

THE ABOVE SITE LISTED IN AREA ONE.

of the fact that there has been no notice served upon the defendant, that defendant's attorney has not been able to locate the defendant, and that the defendant is not in the United States.

[illegible]

There was also a connection between the two witnesses.

[illegible]

My only note was about the note in the book.

How I love these old books! I feel as if I were in the old days, and I am so glad to find them here. I am so glad to find them here. I am so glad to find them here.

There's, and I want to see
the fact could be and as I think

[illegible]

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File with Cherokee Freedman. D-337, Vina Benton.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1901.

In the matter of the application of Joe Lynch et al. for enrollment as Cherokee Freedmen.

Testimony introduced by Cherokee Nation.

Appearance.

A. S. McRea, attorney for the applicants;
J. S. Davenport, of counsel for Cherokee Nation.

REES CRAVENS, being duly sworn and examined by Commissioner ~~xxxxxx~~ Breckinridge, testified as follows:

Q What is your name? A Rees Cravens.

Q How old are you? A I am about 48.

Q What is your postoffice? A Vinita.

A. S. McRea: In view of the fact that the Cherokee Nation has already offered rebuttal testimony in the Joe Lynch matter, I ask that they state in advance what material fact they wish to bring out, whether it is on new matter or what. I certainly object to any testimony unless it is upon some new matter that they wish to bring out or develop.

Mr. Davenport: We will state, in introducing testimony, unless the record shows that we have closed upon the questions of disproving allegations of the applicant which he has attempted to prove, that is, of the ownership, and his return to the Cherokee Nation within the time provided by the treaty, that we will still introduce testimony. It may be possible the record shows we closed; of course if it does I agree with him, but if it does not show that fact, we are still on our branch of it.

Commissioner: Can the attorney for the applicant cite anything in the record in the nature of an agreement or understanding that the case has been closed.

A. S. McRea: That was my understanding.

Commissioner: Can you cite anything in the record to that effect?

A. S. McRea: Except to this extent: the son, in the person of Mr. Len Lynch, of the owner of the applicant, testified as to the ownership, and he also gave testimony as to the return, and naturally the presumption would be that the testimony on the part of the Cherokee Nation was closed.

Commissioner: What do you propose to prove by these witnesses?

Mr. Davenport: That he did not qualify within the time provided by the treaty, and that he has not resided here continuously since then.

Commissioner: The Commission is compelled to pursue a very liberal course in regard to these cases, though it is aware of there being in some respects very trying to counsel on both sides, and it is also very trying to the Commission. The law under which the Commission operates seems to require, for a practical discharge of the obligations imposed, rather more latitude than is usually allowed, and the objection of counsel for the applicant is noted in the record. At the same time, however, in this case the testimony will be taken into consideration, in connection with the objection, by the full Commission. The proceedings and requirements of the Department are very liberal towards applicants; at the same time they regard that the record is in some instances being unnecessarily enlarged. You can proceed with the witness.

Mr. Davenport: How long have you lived in the Cherokee Nation?

A Oh I have lived in it off and on ever since the close of the war.

Q Did you ever live in Kansas? A Yes, I lived in Kansas.

Q Live in Iola, Kansas? A Lived in Iola about 12 or 13 years.

Q About what years did you live in Iola? A I lived there in '63 or '4, '8, along in there, different years, I was in and out, that was my home when I was around in there; I lived in different parts of Kansas.

Q Do you know the applicant, Joe Lynch, in this case? A Yes, I have seen him.

Q Do you know where he lives now? A Down here on Grand River not far from Island Ford.

Q Did he ever go by any other name, if you know? A Some calls him Joe Buzzard and some Joe Lynch.

Q When did you first get acquainted with the applicant? A When he lived in Iola, Kansas.

Q When was that? A That was along, oh it must have been 35 years since I first knew him, or close onto that.

Q When was the last time you knew him living in Iola, Kansas?

A I can't tell you the exact time when I did see him because --

Q Where did you first get acquainted with him? A In Iola, Kansas.

Q When was that with reference to the close of the war? A Not long after the close of the war.

Q Did he have a family? A Yes, he had a wife, I don't remember now how many children he had.

Q What was his wife's name? A Some calls her Teon and some calls her Sophia, she answers to either one of them names.

Q Was his family living at Iola when you first got acquainted with him? A Yes, sir.

Q How long did they live there? A Oh, they lived there seven or eight years or more, he used to work for Dan Harvelly cutting wood, and the Davis boys.

Q You got acquainted with him in Iola, then, after just after the war? A Yes.

Q And he lived there to the best of your knowledge about how many years? A He must have been there eight or nine years, somewhere along there, six or seven, I never kept no count of it before he left there.

Q Do you know anything about his children, did he have any? A I have seen his children, but I never took no particular observation of them, I seen them all.

Q Did his family live anywhere close to you? A Right close, his wife used to stay in the house with my wife.

Q Where was he? A He was working, chopping saw-logs and working around down there.

A. S. McRea: What is your occupation? A All 'round man, no particular work, any line there is a dollar or five cents in, any man got a job of work, don't follow any one certain thing.

Q How long after the war was it that you first became acquainted with the applicant, Joe Lynch? A I don't know the exact time, but I know I met him in town there for a number of years, right around that town, I don't know when he left.

Q You don't know as regards -- you didn't know him in the year 1866?

A I wouldn't say for certain, I expect I did but I will not say for certain.

Q Do you know anything about his ownership? A No, sir, don't know that.

Q His going out of the Cherokee Nation during the war, you know anything about that? A I know he came up there to Kansas.

Q What did he remove there? A I don't know exactly when he came, he came with old Uncle Mose Grubbs and Jonas Baxter and them.

Q When was that? A That was right after the war, or time of the war, close onto that, right along there near the time they raided out of here.

Q Well, when did he return? A I don't know when he returned.

Q How long before the war was that? A Before the war, it wasn't before at all.

Q It was after the war? A Yes, sir, he wasn't up there before the war.

Q You don't know where he went to before the war? A No, sir.

Q How long did you live in Kansas? A I have been in and out there ever since the close of the war, I came to Iola, up here to Chetopa, Kansas, when the first house was ever built.

Q I will ask you if you are a citizen of the Cherokee Nation?

A I am a married man here, I married into citizenship here.

Q Just answer my question, yes or no? A I have never made no claim, no application for any claim.

Q And you have no particular calling for a living? A I do anything that I can make an honest living at.

Q Mention some of the things you do? A Haul, clean up, do anything, cut wood, anything in general.

Q How long do you work at any one particular work? A Just as long as that job is done, then I look for another.

Q What do you realize out of these jobs? A Whatever I can get out of them, and when that is done I am looking for another one.

Q How long have you been married? A I have been married twelve years, a little more.

Q To whom were you married? A I was married to Louisa Ross.

Q And you know Joe Buzzard? A Yes, I have been knowing him right around here for a number of years.

Q How long have you known him right around here? A I have known him in and out I think about 20 years when I first been in and out, I have seen him at different places..

Q Well now how long have you known him in and out in Kansas? A I told you how long, I told you he lived there but I don't know when he left there.

Q What part of that in and out was in Kansas? A I must have knowed him seven or eight years right around Iola there and maybe longer.

Q That was since the war? A Yes, he lived there.

Q Didn't you testify a while ago that you have been knowing him for 35 years? A I did, I expect I have known him longer than that, I didn't say positive, I expect I have knowed him longer than that in my rounds, I didn't stay right around him all the time.

Q 25 years of that time you have known him in the Cherokee Nation?

A I didn't say positive I have known him that long right in one place, but I can say positively I have knowed him right here in the Cherokee Nation for 15 or 20 years.

Q How long did you know your wife before you married? A I knowed her about three or four years.

Q And you been married to her twelve years? A Yes, maybe longer

Q Where did you first meet her? A In Iola, Kansas.

Q You married her in Kansas? A Yes, sir.

Q Then when did you move to the Cherokee Nation with her? A Well when I first come down here with her, to the best of my knowledge, which I can prove by facts, little Ike Martin was a boy about that high

Q I don't know him, tell about how many years? A That must be close onto 25 or 30 years, longer I expect, little Ike I expect is 25 or 30, I used to know him, I used to come here and hire a horse and buggy and he take me around over the Nation.

Q You knew your wife four years before you married? A I expect I knew her longer than that.

Q Come down to the fact of it? A I haven't got any specified time how long I knowed her.

Q I want to ask you the question? A Well I have done answered that.

Q Now you say you knew your wife four years before you married her?

A I expect I did and maybe longer.

Q Well how much longer? A I didn't say how long.

Q You married her in Kansas? A Yes, sir.

Q Stayed there about 12 years with her? A Yes, sir, I stayed in different parts of Kansas.

Q And came to the Cherokee Nation with her? A Yes, sir.

Q Now how long have you lived in the Cherokee Nation with her?

A Right here in this town, I have been permanent in this town, about five years, permanent.

Q With you and your wife? A Yes, sir.

Q You said now that you know him in all 35 years? A Knew who for 35 years?

Q Your wife, knew her for 35 years? A I am just telling the time and different places I have lived.

Q Didn't you tell you have known your wife altogether 35 years?

A Maybe longer.

Q And yet you know her four years before you married her?

A I can't give you any positive time about that.

Q Lived with her 12 years in Kansas? A I can't give you any positive time, I lived with her about 12 years, I lived with her 12 years, she has been dead now about nine months, altogether will make about 12 years.

Q You lived with her 12 years in Kansas? A I didn't say I lived with her that long in Kansas, I say I lived, I expect I have lived with her that long.

Q The fact of the matter is you don't know anything about any of it?

A I know anybody I see, if I see you and anybody ask me if I see you I can tell them I see you.

Q Do you swear this Joe Lynch is the same one lived in Kansas, Iowa Kansas, 40 years ago? A I didn't say 40, 30 he lived there, and I can prove by dozens of people.

Q How long? A I didn't tell you how long.

Q How long did you say? A I didn't say but I tell you he lived there.

Q How long did he live there? A I told you he lived there about seven or eight years around about the country and when he moved I don't know, it aint no use for him to say he didn't live there.

Q We don't propose to argue the question. A Well you talked like he didn't live there; he lived right there.

Q Now I want to go back with reference to the number of years you lived with your wife? A You hee'dn't go back, I have told you all the reference you will get out of that, I told you that now, you are just losing time, I am not telling you the positive date about how long I lived, but I tell you what I can do, I have the papers down in my trunk will tell the dates, they tell you the dates, they are recorded and you can't dispute them.

Q Now according to your estimate you lived with and known your wife 16 years; is that right? A You can make it as you please, I have give it now according to my best knowledge, I kept no record of it.

Q In other words, you just came here to swear against Lynch? A I don't have it to do, I wouldn't lie for you if you were my daddy.

Q Now didn't you just come here to swear against Joe Lynch? A No, sir I haven't got nothing against the man, not a thing sir, but I don't propose to tell a lie for nobody, a man can't hire me to do that; no, sir: if I am acquainted with a man and a man ask me if I know him --

Q Well how many children did Joe have in Kansas? A Well I know one time me and my wife was down there, and I couldn't count them, I says, tooo, how many children have you got for Lord sakes, and she says, Mr. Graven, you see them running around here like quails, count them, and I couldn't count them.

Q How many did you count? A I counted eleven or twelve, but I understand that he was the father of 22, I don't know it by the facts.

the last count he had 83 I think that his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Cravens, how long have you known Joe Lynch, all told?

A I can't tell you exactly, all told, but you asked me how long did I know him and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out ever since the close of the war.

Mr. Davenport: Did you have any neighbors in there at Iola, Kansas, do you remember the names of any that know about Joe being there?

A Yes, there is Dr. Chertson, Ben Harvelly, Bill Davis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably be here, or their representatives.

A. S. McKee: Now your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedman cases D-583, D-584, D-585, D-586, D-587, D-420, D-420, and D-233.

Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedman D-376.

Note: Copy of testimony also should be filed in case of Robert Foster, D-582, and in D-370, as to children of Billy Curle and Nancy Curle.

Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Sworn to and subscribed before me this 8th of October, 1901.

Bruce G. Jones
[Signature]
Commissioner.

CXDS-387

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COMMISSION TO FIVE TRIBES.

Cherokee F D - 376.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I.T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee Freedmen.

APPEARANCES:

Applicant appears in person and by attorney, A. S. McRea. Cherokee Nation by its representatives W. W. Hastings and L. B. Bell.

SIMON LYNCH, being first duly sworn, testifies as follows:

BY MR. McREA:

Q What is your name? A Simon Lynch.

Q What is your age? A 74.

Q What is your postoffice? A Spavinaw.

Q Are you a recognized citizen of the Cherokee Nation? A I don't know, I guess I am, I hardly know.

Q Does your name appear upon the authenticated roll of 1890? A I reckon so, I don't know.

Q You are an applicant for citizenship in the Cherokee Nation, are you not? A Yes sir.

Q Are you acquainted with Joe Lynch, the applicant who made application for enrollment as a citizen of the Cherokee Nation on May 21, 1901? A Yes sir I knew him all his life pretty near.

BY MR. HASTINGS:

Comes now the representatives of the Cherokee Nation and asks permission to interrogate this witness as to his competency to testify.

BY MR. HASTINGS to witness:

Q Your name is Simon Lynch? A Yes sir.

Q You live in Saline District? A Yes sir.

Q You have lived there since the war? A Yes sir, ever since.

Q And you are the same Simon Lynch that was convicted of the larceny of some hogs? A Yes sir, and I was not there when the hogs were stolen.

Q You were sent to the Cherokee jail at Tahlequah, Indian Territory? A Yes sir.

BY MR. McREA:

Comes now the attorney for the applicant and objects to the motive of examination relative to the competency of the witness for the reason that the witness having been convicted of some crime committed in the Cherokee Nation under the Tribal Government is no test of witnesses competency to give any testimony in cases of this character, in view of the fact that under the laws of Congress enacted and put in force in the Indian Territory, the witness herein is now declared under and by virtue of said laws a United States citizen clothed with all the rights and privileges of other citizens of the United States.

BY MR. HASTINGS:

Q You were convicted of stealing hogs from Charles Thompson, who was afterwards Chief of the Cherokee Nation? A That is what it was said.

Q That was the Cherokee penitentiary at that time at Tahlequah?

A I don't know what it was.

BY MR. MORRIS:

Q How long have you known Joe Lynch? A Ever since he was a little boy.

Q Was he a slave of a Cherokee citizen of Cherokee blood? A Yes sir.

Q Do you know whether or not of your own knowledge that Joe Lynch went out of the Cherokee Nation during the war of the rebellion?

A Yes sir.

Q Do you know to where he went? A No sir, I don't know.

Q Do you know when he returned back to the Cherokee Nation? A Yes sir.

Q State when you first saw him in the Cherokee Nation after the war? A In the fall of '66.

Q At what place in the Cherokee Nation did you see him? A In the six mile bottom there at my house.

Q You were then living in the Cherokee Nation? A Yes sir.

Q Did you have any conversation with him? A Yes sir stayed all night with me.

Q Did he state to you at that time for what purpose he returned to the Cherokee Nation? A Coming to look out a home.

Q How long did he remain? A About three days.

Q Do you know where he went after that? A Said he was going back to Kansas.

Q When was the next time you saw him in the Cherokee Nation?

A About the first of February he moved down.

Q Of 1867 was it? A Yes sir.

Q Did he bring his family out that time? A Yes sir.

Q You have known him to reside in the Cherokee Nation continuously ever since? A Never anywhere else that I knew of.

Q How many persons did his family consist of at the time he returned in February, 1867? A One besides him and his wife.

BY MR. HASTINGS:

Q Where do you live now? A I live right there adjoining places to my old bossen's place in Saline District.

Q Were you living there at the time Joe Lynch come to your house as you have stated the first time? A No sir.

Q Where were you living at that time? A In six mile bottom on a place of George Clark's.

Q Then Joe never moved his family down here in 1866? No sir.

Q And if any of these witnesses testify to that effect they testify to what was not true? A I don't know what they testify. He didn't move until I moved there in Saline District to my house.

Q When did you move to your house? A He moved to my house.

Q When did you move to your house? A February first.

Q Of 1867? A Yes sir.

Q How long had you been over there before he come back? A I had been there about two months.

Q Then it was about two months after you moved over to your house before Joe Lynch brought his family? A Yes sir.

Q And you moved over there the first of February, 1867? A Yes sir.
 Q Joe's first wife was related to you wasn't she? A No never had but one.
 Q Was that wife related to Joe? A Joe's sister.
 Q Why didn't you testify for Joe in this case up at Vinita? A He didn't want me, didn't call on me.
 Q Did you ever testify for him before? A No sir.
 Q You never testified for him before the Kern-Clifton roll? A No sir.
 Q Nor before the Wallace court? A No, sir.
 Q Where did you make a crop in the year 1866? A Up on Cabin Creek.
 Q On which side of Grand River? A On the west side.
 Q When did you move there? A In the summer.
 Q Summer of 1866? A Yes sir.
 Q Then where did you go? A I come down there close to the old Military Road at Mrs. Kell's old place.
 Q Then where? A To the six mile bottom where George Clark let me have a place.
 Q What time did you move? A In the fall.
 Q Of 1866? A Yes sir.
 Q What year is this? A I don't know.
 Q What year was it that Wallace made his roll of Freedmen? A I don't know, I can't keep no time of anything that way.
 Q What year did Kern-Clifton make a roll? A I don't know.
 Q Don't know any of these years? A No sir.
 Q What kind of a team was Joe driving when he come down to your place? A An old sorrel mare and one bay.
 Q What road did he come in coming to your place? A All roads, he started from Sulphur Springs and come right down over the mountain that is as far as I can tell you he come.
 Q What Sulphur Springs was that? A The Rob Daniels' old place.
 Q On which side of the river was Rob Daniels' place? A West side.
 Q Did he come by Watt West's place? A No, sir.
 Q How far did Watt West live from the road? A He did live on the side of the road when he come there.
 Q Where did Joe Lynch settle when he first come to your house in '67 with his family? A Right where he is now.
 Q That is the first place he ever settled? A Yes sir.
 Q And he has been living right there ever since? A Yes sir.
 Q How long did he stay at your house before he went and settled this place where he resides now? A He stayed there about two months I guess to the best of my knowledge.
 Q Then he settled this place in the early summer? A No sir.
 Q Or spring? A No sir, it was too late to make a crop.
 Q Then he come down there too late in the spring of '67 to make a crop? A He worked at my place a little.
 Q And went from your place to where he lives now? A Yes sir.
 Q Built him a house? A Yes sir.
 Q Did nobody come with him besides his family? A I don't recall at now.
 Q What is his eldest child's name? A Hester.
 Q And she was with him? A Yes sir.
 Q Didn't have any other children at that time? A No sir.
 Q You say you don't remember any other colored people coming with him? A No, sir, it has been so long I don't recall.
 Q You used to have his sister for your wife? A I have got her yet when I am at home.

BY MR. MARRAS:

Q Did you ever vote in the Cherokee Nation? A Right near every election.

Q Have you voted in the Cherokee Nation since the time you were convicted of this offense of which Mr. Hastings speaks? A Yes sir every time since never voted when I was a slave, voted since.
Q You have enjoyed all the rights and privileges of a Cherokee citizen every time since 1866, have you? A Yes sir.
Q You speak of living on a place that you got from Mr. George Clark in 1866? A Yes sir.
Q He recollects that does he not? A I guess so.
Q How far do you live from that place that you rented from Mr. Clark with reference to the place you live on now? A About two and a half miles.

BY THE COMMISSION:

Q Where did you go during the war? A Kansas.
Q And when was it you returned to the Cherokee Nation? A February 1866.
Q That is when you came there, February, 1866? A Yes sir.
Q How long had you been here did you say, until you saw Joe Lynch? A He came in the fall after I come here, yes sir, horse back.
Q Was it cold weather then? A No sir, not right cold, it was in the fall.
Q He came to your place? A Yes sir come to Mr. Park's place where I was living.
Q How long did he remain there Mr. Lynch? A Until spring.
Q I am talking about him? A He stayed there about three days.
Q Just on a visit? A He come down to look out a location.
Q And then where did he go if you knew? A He went back to Kansas, said he was.
Q Did you first move from the George Clark place about the first day of February? A Yes sir.
Q And you answered Mr. Hastings that you had been there about two months did you not when you saw Joe Lynch? A When he came back from Kansas I was living at George Clark's place.
Q And the next time where were you living? A Where I live now.
Q How long had you been there when you saw Joe Lynch the second time? A Two or three months.
Q When did you go to where you are living now? A February I moved over there the first of the spring.
Q February, 1867? A Yes sir.
Q That is the story you want to tell the Commission is it? A That is what I have told.
Q I have not asked you have I? A No sir I guess not.
Q You want to tell the Commission that you moved over to where you are living now about the first of February, and you had been living there about two or three months when you saw Joe Lynch and his family? A Yes sir when they moved down.
Q When he came to where you are now living in the spring of 1867 who did he have with him? A His wife.
Q Who else? A His child.
Q Wife and one child? A Yes sir.
Q That is the child pester? A Yes sir.
Q So far as you know Hester and her mother had not been in the Cherokee Nation after they had left during the rebellion until you saw them where you now live? A That is right so far as I know.
Q Now was it that Joe Lynch came down and picked out a place? A That is what he said.
Q Did he make any improvements or locate him a claim so far as you knew? A Yes sir right where he lives.

Q Did he improve it? A Put some logs around it, made a foundation of logs around it.

Q Did he do that in three days time? A Yes sir I went and helped him.

Q Was that on the prairie? A Yes sir.

Q Was there any timber close there? A Yes sir right south of it.

BY MR. McREAR:

Q Do you remember that you stated in your examination in chief, when I asked you the question, when was the first time that you saw Joe Lynch in the Cherokee Nation, your answer was in the fall of '66, is that correct? A Yes sir.

Q Then I asked you when was the next time you saw him, and your answer was about the first of February, 1867?

Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to the leading questions that are being asked by the Attorney for the Applicant.

Commission: Objection noted.

Q Did you make that statement? A Yes sir.

Q When was the first time you saw Joe Lynch in the Cherokee Nation after the war? A Fall of '66.

Q How long did he remain in the Cherokee Nation at that time? A About three days at my place.

Q Did you have any conversation with him? A I talked with him all the time he stayed there.

Q What did he say if anything with reference to coming back to establish his citizenship in the Cherokee Nation? A Said he come back home to located out a place.

Q Did he locate a place at that time? A Yes sir.

Q Do you know where? A Yes sir.

Q Is it the present place he lives on? A Yes sir.

Q When was the next time you saw him in the Cherokee Nation after the war? A In the spring, I don't know just what dates.

Q Where were you living when he returned to the Cherokee Nation the second time? A Right where I live now.

Q How long had you been living where you live now before Joe came back? A Not long, just a little while.

Q Did he bring his family with him at that time? A Yes sir.

Q Do you know what month it was that he brought his family to where you now live? A I don't know exactly.

Q How long did he stay with you at that time? A He stayed until he built him a cabin, there where he lives now.

Q That was in '67? A Yes sir.

BY MR. HASTINGS:

Q You say that was about two or three months after you moved there from the George Clark place? A He stayed there two or three months with me.

BY MR. McREAR:

Q It was two or three months before he moved to where he lives now? A Yes sir.

Q And you stated that you hadn't been where you live now very long until he come there? A Yes sir.

BY MR. HASTINGS:

Q You have testified that you moved over to this place from the George Clark place about sometime in February, 1867? A Yes sir.

Q You have testified that you were over there about two or three months when Joe Lynch came back the second time with his family?

Q Yes sir I was.

BY MR. HILL:

Q Was not there no other colored people living around there?

A Crap and Art.

Q Did they come to see Buzzard? A Yes sir they lived at the old houses place, got it from Lem Lynch.

BY MR. HASTINGS:

Q You are positive that this child Hester was born in Kansas, and that they brought it down here with them? A Yes sir.

Q About how old was Hester when they come down? A I don't know.

Q About how old? A I can't tell she was a child.

Q Running around, walking and talking? A Sucking I believe.

Q Was she a year old? A I can't tell how old she was, I don't know that.

LEWIS LYNCH, being first duly sworn, testified as follows:

BY MR. MORRIS:

Q What is your name? A Lewis Lynch.

Q What is your age? A Near about 80/

Q What is your postoffice address? A Spavinaw.

Q Are you a recognized citizen of the Cherokee Nation? A Claim to be, yes sir.

Q Is your name on the authenticated roll of 1880? A Yes sir.

Q Are you acquainted with Joe Lynch? A Know him by the name of Joe Buzzard, yes sir.

Q He is the same person present and an applicant for citizenship in the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life.

Q Did he belong to a citizen of Cherokee blood of the Cherokee Nation before the war? A Yes sir.

Q To whom did he belong? A To Joe Lynch.

Q Did he go out of the Cherokee Nation during the war of the rebellion? A Yes sir.

Q Do you know to where he went? A To Kansas.

Q Do you know when he returned back to the Cherokee Nation with reference to the treaty? A They said it was 1866, I was quite a boy and didn't keep records of the dates.

Q Did you see him in the Cherokee Nation after the war? A Yes sir.

Q What time after the war? A It was along in the winter.

Q Of what year do you remember? A They say it was '66, I kept no record of the dates at all.

Q Where did you see him in the Cherokee Nation? A At my father's

Q Who was your father? A Simon Lynch.

Q The gentleman who has just testified? A Yes sir.

Q Were you present when Joe Lynch came to your father's house?

A Yes sir.

Q How did he come? A Horse back.

Q How long did he remain at your father's house? A Two or three days not longer.

Q Did he say anything with reference to coming down for the purpose of establishing his citizenship of the Cherokee Nation at that time? A I didn't hear him at that time.

Q Where did he go to after he left your father's house at that time? A The old folks said he went back to Kansas.

Q Did you see him in the Cherokee Nation after that? A Yes sir.

Q About how long after the first time you saw him? A It was along in the spring the next time.

Q Of the next year? A Yes sir.

Q Where did you see him then? A In Saline District.

Q At what place? A At my father's where we lived, we had moved out of Delaware District into Saline District.

Q Did he bring any one besides himself at that time? A He brought his family.

Q How many persons did it consist of at that time? A Two to my best knowledge, they were his wife and daughter.

Q Was it his present wife? A Yes sir.

Q Do you know the name of the daughter? A Hester.

Q Hester who? A Hester Foster now.

Q Did he at that time begin making preparation for a permanent location in the Cherokee Nation? A Yes sir the last time he come he did.

Q Where did he make that location? A In Delaware District.

Q The place where he now lives? A Yes sir.

Q And that was in the spring you say of '67? A Yes sir to the best of my knowledge, I don't know anything about the dates, but it was the next spring after I saw him first.

Q Where did he make his home while making preparation for the place? A With my father and mother.

Q How long did he stay there? A I disremember just how long.

Q But you do know that he moved from your father's place over to the place where he now lives? A Yes sir.

Q Have you known him to be continuously in the Cherokee Nation ever since that time? A Yes sir.

Q You are close neighbors are you not? A About two and a half miles.

BY MR. HASTINGS:

Q Joe Lynch, the applicant, is an uncle of yours is he not? A Yes sir.

Q You never took the stand to testify for him before have you? A No sir.

Q You don't know very much about this you saw? A No sir.

Q You only know the dates they told you they were, that is all you are attempting to testify to? A Yes sir.

Q You know what date Mr. Wallace made a roll of Cherokee Freedmen? A No, sir.

Q Do you know when that big freedman payment was made? A Which one.

Q The last one? A No sir, I don't.

Q You don't know when Kern-Clifton made a roll? A No sir.

Q What year were you married? A I don't know that.

Q Are you a married man? A Yes sir.

Q Got some children? A Yes sir.

Q What is the date of the birth of the first one, what year? A I don't know.

Q You don't know no years do you? A No sir not particularly.

Q You and your father and the attorney for the applicant talked over this case to what you were going to testify to? A No sir.

Q Never mentioned it? A No sir.

Q Never said anything to Mr. McRea outside? A No sir.
Q He never talked to you about what you know about the case?
A Yes sir, but not on the outside.
Q Inside of the room then? A Yes sir, outside is outside and inside is inside.
Q He went over it with you and your father? A Yes sir.
Q And your father told you about what he knew about it in your presence and you testified to the same thing? A No sir, I didn't.
Q You don't know the year do you? A Which year.
Q When you first saw Joe Lynch? A No sir, they claim it was in 1866.
Q They claim it and that is all you know about it isn't it?
A Yes sir.
Q Where was you born? A In the Cherokee Nation.
Q Where was you living when Joe Lynch moved his family down there?
A In Saline District.
Q On whose place? A Simon Lynch's place.
Q Same place you are living now? A Same place he is living.
Q He was living right there when he moved his family down where he is living now? A Yes sir.
Q Are you sure he had one child? A That is all I remember.
Q You remember that one? A Yes sir.
Q If Joe Lynch swears that he didn't have that child, he is mistaken isn't he? A I suppose he is.
Q Do you know he is? A Yes sir if he swears that he didn't have it when he come.
Q About how old was Hester when they moved there? A I don't know.
Q You remember they had a child, how big was it? A A good big child, large enough to be walking.
Q Walking? A Walking, yes sir.
Q Talking? A I don't know about that.
Q Did he come the next time in a wagon? A Yes sir.
Q Do you remember what kind of horses he had? A No sir.
Q They didn't tell you yesterday about that serrel team? A No sir.
Q Didn't you hear yo r father say that? A No sir.
Q Your father told you yesterday that he had moved from one place to another? A No sir.
Q Didn't tell you that? A No sir, I knew that.
Q But you don't know what year you moved? A No sir.
Q You don't know anything about the years? A No sir.
Q You don't know a single year in which a single one of your children were born, do you? A Yes sir.
Q What year was the first one born? A I couldn't say exactly.
Q Then you don't know do you? A No I don't know that I could positively say now.
Q You don't know what year only what they said when Joe Lynch came back do you? A No sir.
Q You don't know what year you moved to the place where your father lives now, only what you were told? A No sir.
Q How long had you been living there when Joe came back? A Not quite a year we moved there in the winter and the next spring I saw Joe Lynch.
Q Simon had been living where he lives now for about a year when Joe came back? A No sir not a year.
Q About how long? A Moved over in the winter and I saw Joe the following spring.
Q How long had your father been living there when Joe brought his family? A Might have been three or four months.
Q Is that your best judgement? A Yes sir.

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- Q Had you put in corn? A No sir.
Q Fixing to put in corn? A Yes sir.
Q Do you know what month your father moved there? A No sir.
Q You don't know what year? A No sir.
Q What year is this? A I don't know exactly.
Q You don't know what year you were born in do you? A No sir.
Q How many children have you? A Three.
Q What year was the second one born in? A I don't know.

W. A. WEST being first duly sworn, testified as follows
on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A W. A. West.
Q What is your age? A 63.
Q What is your postoffice address? A Spavinaw.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Have you always lived, with the exception of the war, in the Cherokee Nation? A Yes sir.
Q Is that in Salige District? A Yes sir.
Q Were you in the army during the war? A Yes sir.
Q Where did you settle first after the war? A My permanent house was on the road there, on the Military road north of Grand River there where I lived.
Q When did you settle there? A About 1867, commenced it in '67, and finished it that winter, I commenced in the summer like getting out the lumber.
Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Do you know where he now lives? A Yes sir, I presume I do, at the same place where he has lived, I haven't been at his house lately.
Q You have been at his house? A Yes sir, I have been there often.
Q It is claimed that he lives at the same place? A Yes sir.
Q How far is that from where you formerly lived? A It is about two and a half miles or three miles, somewhere along there, I always called it about two miles.
Q I will ask you if you knew him when he lived there that near you? A Yes sir.
Q When did he first come back to the Cherokee Nation after the war? A To the best of my recollection he came back in 1868.
Q Were you living at this place you had made? A Yes sir.
Q And you commenced that in 1867? A Yes sir.
Q What time in '67 did you commence that place? A I commenced getting out the lumber along in the spring and summer and I lived in a tent on the same road about a quarter from that place.
Q Were you living in the house when you saw this applicant? A Yes sir.
Q Where was he going? A He said he was going from Kansas, coming there to make a home in the Cherokee Nation and he inquired at my house where Simon Lynch lived?
Q Did you direct him to where Simon Lynch lived? A Yes sir, I told him Simon Lynch lived across the river somewhere about the old Lynch farm.
Q Was Joe Lynch in a wagon? A Yes sir.
Q Did he have the members of his family with him? A He had his wife and one child, as well as I remember.
Q Do you remember what kind of a team he had? A He had just a common pony team.

Q Was your house on this old Military Road? A Yes sir right along the edge of the road.
Q When did you get that house completed, was you moved into it?
A I moved into it in the fall of 1867.
Q And it was not until after that time that he come along in a wagon inquiring for Simon Lynch? A No sir in 1868.
Q You think it was the next year? A Yes sir the next year, and may be the following.
Q And it couldn't have been earlier than 1868? A No sir, nor later '68 is the year as well as I remember.
Q Was any one else along with him in the wagon besides his family.
A No sir.
Q He said he was from Kansas, did he? A Yes sir.
Q And he was inquiring the way to Simon Lynch's? A Yes sir.
Q He didn't know then at that time where Simon lived? A No sir. I reckon not by his inquiring.
Q This same Simon that you have seen here as a witness in this case? A Yes sir the same Simon.

BY MR. MORRIS:

Q You have testified in this case once before havn't you?
A Yes sir.
Q And you havn't any improvement to make by way of testimony on what you have already testified to? A No not that I know of.
Q Do you know where Simon Lynch was living in 1866? A Across the river.
Q He was in the Cherokee Nation in 1866 was he? A Yes sir.

BY MR. HASTINGS:

Q Do you know of Simon Lynch's having been convicted of stealing hogs? A I have heard he was convicted.
Q In the Cherokee Courts? A Yes sir.
Q Sent to the Cherokee penitentiary? A Yes sir.

JOE L. THOMPSON being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. HASTINGS:

Q What is your name? A Joe L. Thompson.
Q What is your age? A 66
Q What is your postoffice address? A Vinita.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Where do you live, you don't live in the town of Vinita do you?
A 12 miles south of Vinita.
Q How far from Grand River? A About three miles.
Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Did you remain in the Cherokee Nation during the war? A No sir.
Q Where did you go, south? A Went to Texas.
Q What year did you return after the war? A I came back in the winter of '67, I came to Fort Gibson.
Q When did you land up there near where you live on Grand River?
A In the spring of '66 I come to the place where I now live and made a crop, in the spring of '69 I moved on the Arizona place.
Q Do you know where the applicant, Joe Lynch, now lives? A Yes sir.
Q How far does he live from you? A About three miles I guess.
Q Was he living there when you came back? A No sir, not to the best of my recollection.
Q Do you remember of his coming back there? A It was the best of my recollection, that he moved there to that place about 1869.

You say he wasn't living there when you returned? A No sir.

Q And you came back yourself in the early spring of 1868? A Yes sir.

Q Was he living there when you come back in 1868? A If he was I didn't know it.

Q What is your best judgement? A He was not living where he is now.

Q It is plain to him that he settled there the first place that he settled in the Cherokee Nation? A The best of my recollection is he never moved to the place where he lives until 1869.

Q Was that the first you saw of him in the Cherokee Nation after the war? A Yes sir.

Q Did you know him before the war? A Yes sir.

Q Did you know his owner? A Yes sir his owner was my uncle.

Q Where was you living in 1869 when you first saw this applicant? A On what was called the Arsena Place.

Q How far from Simon Lynch's? A About four or five miles the way you have to go I reckon.

Q You feel positive that this applicant was not there when you first came back in 1868? A No sir there was no improvements there when I came back in 1868.

Q Do you know Simon Lynch? A Yes sir.

Q Do you know of his being convicted of stealings hogs in the Cherokee Nation? A No sir.

Q You have heard of it? A If I did, I don't remember it.

Q You lived there in Tahlequah District? A Yes sir.

BY MR. MORRIS:

Q I understood you state that you did not return to the Cherokee Nation until sometime in 1867 is that right. A Yes sir.

Q Where were you in '66? A I guess I was in Texas.

Q If Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866 and his testimony is born out by Ed Lynch and Simon Lynch, are you prepared to say that it is not true? A I havn' said so.

Q You would not say so would you? A I was not here in 1866.

Q You have testified in this case before, havn't you? A I don't know, I guess so.

Q And you are not now prepared to add nor detract anything from the statements you first made in the case, at this time are you?

A No sir, I don't know that I am.

G. W. CLARK being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

Q What is your name? A G. W. Clark.

Q What is your postoffice address? A Vinita.

Q Are you a Cherokee citizen by blood? A Yes sir.

Q Were you in the Union army during the war? A Yes sir, I served nearly three years in the army.

Q When was you married? A I was married on the 8th of June, 1865.

Q Just after the war? A Yes sir, eight days after I was mustered out of the service.

Q Where did you first settle down after the war? A Upon the river in the neighborhood of where I live now.

Q Up in the north end of Saline? A Yes sir, it was Saline then but it is in Cooweescoowee now I think.

Q That was just across the river from the north end of Saline?
A Yes sir, I lived on the west side of the river, I made a crop there in '66.
Q Where did you make a crop in '67? A I moved in the fall of '66 along in December to another place about ten or twelve miles from there, the place where I was, to a place in Delaware District known as six mile bottom.
Q Near the old Joe Lynch place? A Yes sir.
Q On which side of the river? A On the same side, west side.
Q That was in the fall of '67? A No sir, fall of '66.
Q Where did you live in the year of 1867? A I lived there four or five years.
Q Continuously? A Yes sir.
Q Did you know the applicant, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Did you know him before the war? A I saw him but I don't say that I was acquainted with him.
Q You know his owner? A Yes sir I knew old Uncle Joe Lynch.
Q Was he a relative of yours? A No sir.
Q Do you know where this applicant now lives? A Yes sir, I am well acquainted with the place, about two to two and a half miles from where I lived four or five years ago.
Q You moved up there in the fall of '66? A Yes sir.
Q And you lived there four or five years? A Yes sir, may be six.
Q When did he move back to this place after the war? A The first I recollect of seeing him I seen him at old man Simon's place old man Simon in the fall of '66 lived on my place in this six mile bottom, after I moved there I let him have some house and lived there that winter and early in the spring of '67 he moved to what is known as the old Joe Lynch bottom.
Q You mean Simon? A Yes sir, I loaned him a yoke of steers to do the breaking he did there.
Q How long was it after you moved to this place before you saw Joe Lynch at Simon's? A I didn't see him there for a couple of years.
Q How long was it after you moved to this place where you moved in '66 before Joe Lynch came there and make this improvement?
A My recollection is that he didn't make this improvement the first year after I come there.
Q You think the first time you saw Joe was at Simon's? A That is the first time I saw him.
Q Where was Simon living then? A Where I located him on the east side of the river.
Q That was on your place? A No sir.
Q And you think that was to your best judgement, 1868? A It was 1868 or '69.
Q And you owned the place where Joe Lynch afterwards built? A Yes sir.
Q Were you acquainted with the country before he built there?
A Yes sir, that was on the road there where I did the most of my passing.
Q Did you travel the road frequently? A Yes sir.
Q About how far did Joe Lynch the applicant located from this road? A He located on a little ridge about 150 or 200 yards from the road, it may have been more or less.
Q The place could be seen easily from the road could it? A Yes sir.
Q Nothing in the way? A He built his house there on the prairie.
Q You knew Simon Lynch who has testified in this case? A Yes sir, I am well acquainted with him.

Q Do you know of his having been convicted up there in the Cherokee courts for stealing hogs? A I had moved away from there then, but I heard of it.

Mr McRea: We object to hearsay.

Commission: Objection noted.

Q It was the common report was it? A He was convicted no common report about it.

Q What official positions have you held, you have been a member of the Cherokee Senate and Cherokee Council a number of times?

A Yes sir I was in office sixteen years, I have----

Q Also on the circuit bench? A Yes sir, eight years.

Q Solicitor of Saline District? A Two years.

Q And you were in the Union Army? A Yes sir, in the third regiment.

Q And your best judgement is that Joe Lynch came back in '68 or '69? A That is when I saw him.

Q And you were living there in that same neighborhood, and he located out there on a little prairie near the road that led to the store at which you traded, and where there was a black smith shop? A It was a big prairie, three or four miles across the neck of it, it reaches from there I expect to Chetopa. From my place back there is a woodland hilly place until you get down to where the house was, and there was a little prairie there where I lived but he lived on the main big prairie.

BY MR. BELL:

Q The place that you stayed up there in six mile bottom, was that that Dirteater place? A It was known as the Jim Daniel's place before the war, I bought it from the estate.

Q How is that six mile bottom situated with reference to the river. A The river bends around it.

Q The river is on three sides of it? A Yes sir.

Q Now in getting from your house to this store you speak about, there was only one road? A Yes sir just one road.

Q There would have been no way of getting to your store by a road except by taking another road that didn't go in that direction.

A No sir it went north.

Q But you went west from your house to the store? A Yes sir. Nearly due west according to the section road.

Q That was the only road with a direct route to the store? Yes sir.

Q That road passes then 150 or 200 yards of the place that Joe Lynch built? A Yes sir, and I think he is living there yet.

Q The McGrary store was at the Kell place? A Yes sir.

Q It was the only trading point in that immediate neighborhood?

A Yes sir, the only one anywhere around there.

Q If Buzzard had this house built there in '67, you think you would have seen it? A I knew I would because there was a little circumstance there, me and Walker Daniels got after a bull right there where he built that house, and right over the swag there there in running him up there, he runed past him and the bull killed his horse or mare, hooked his insides out.

Q That was in '67? A Yes sir.

Q There was no house there then? A No sir the first that was built was built this side of there. That was before he put that up on the left hand side of the road as you went, a colored fellow fellow by the name of Beny Daniels, and the next was the house that Joe Lives in.

Q Then there was no other houses therein that country right then? A No sir, no other house, I made a claim right across the next ridge and I let Andy Frye have that.

Q Nobody living in there? A No sir.

Q Indians or nobody else? A Nobody at all.

Q And it was in '68 or '69 before you discovered Buzzard there in this house? A My opinion is he didn't build a house there in '69, and he stayed a year in the bottom before he built a house.

BY MR. McRea:

Q When was the first time that you saw Joe Lynch in the Cherokee Nation after the war? A It was over at Simon's in '68 or '69, I think '69.

Q You are not positive as to which? A No sir.

Q Now where was he when you saw him at that time? A He was in and around Uncle Simon's there on the place, he come in there with a pony team, and had a wife and child.

Q Were you present when he come? A No sir.

Q That was what you heard? A There wasn't but a few people there and when a man dropped in the neighborhood we know he was a stranger, it wasn't settled like it was now, wasn't many people in the country.

Q Where was you living in the fall of '66? A I moved on this place that we were above referring to in that bottom east of where Joe Lynch built his house.

Q How far with reference to where Simon Lynch lived at that time in '66 on your place? A There were two houses on the place he occupied, one of the houses from the house I lived right across the hill north, I expect it was 180 or 200 yards, one of the houses that he was in, that he kept one of his wives in. He kept another house, I will tell you about that. It was about a quarter of a mile south of the place and he kept his other wife there.

Q Are you prepared to dispute the statement made by Simon Lynch and Joe Lynch, that Joe Lynch came to Simon Lynch's place where he was living in the fall of '66 on horse back? A If he did I didn't see him.

Q He come have come through without your having seen him, couldn't he? A I guess he could have without my seeing him, by coming in the night and going away.

Q Answer yes or no? A He could have come, but I never seen him.

Q I understood you to say in your examination in chief that you had no special acquaintance with Joe Lynch before the war?

A No sir, that is right.

Q Then the first time that you ever seen him to know him was sometime in the year 1868 or '69, is that correct? A Yes sir.

Q He could have been in and around Simon's at the time he said without your knowing him in view of the fact that you had no acquaintance with him? A He couldn't have been around there very much because I watched everybody pretty close them times.

Q Sometimes? A All the time.

Q You had no acquaintance with his family? A No sir, the first time I saw his wife she was at Simon's and had a child, and then they had one regular every year.

Q You never testified before in this case? A No sir.

Q You know all about the facts that you are testifying to now in 1901 and 1902, didn't you? A Yes sir, of course I would have, I come acquainted with them in '67 and '68.

Q You knew these facts at the time the applicant made his application for enrollment? A Yes sir.

Q And you were not called upon at that time to testify? A No sir.

Q When was the first time that your attention was called to the fact that you would be required to testify in this case, Mr. Clark? A I don't know, think it has been more than three or four weeks ago that I received a notice from the Commission that I was summons here in this case, and it read like I had testified in the case. I was very well acquainted with this fellow. He was hard up and we furnished him milk all of the time, my wife and I, and she knew him better than I did, he carried milk from our house all the time, we treated him as well as we could.

Q Do you know how long Joe had been at Simon Lynch's at the time you first saw him in '68 or '69? A No sir, I couldn't say the exact time, might have been a week or two maybe longer.

BY MR. HASTINGS:

Q I believe you stated that you people sort of kept a watch on the people who came into the country immediately after the war?

A Yes sir.

Q It was necessary in those days, was it not? A Yes sir, very necessary.

Q And for that reason you knew about everybody that came around in your neighborhood? A Yes sir, I watched everybody.

Q You knew when you first saw Joe Lynch ever at Simon's that he was a newcomer? A Yes sir, there was but a few of us and we knew when a new man came there.

BY MR. MORRIS:

Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866, are you prepared to state upon your own knowledge that he didn't return up there up there at that time?

A No he didn't return up there, I aint prepared to say in the fall whether he returned there or not.

Q You don't know whether he did or not? A No sir.

BY MR. HASTINGS:

Q You know you never heard of his returning there in the fall of 1866? A No sir.

BY MR. MORRIS:

Objected to for the reason that it is incompetent, irrelevant and inadmissible.

COMMISSIONER: Objection noted.

BY THE COMMISSIONER:

Q When did you first come up to that neighborhood where you are living now and where Joe Lynch lives now? A I aint living there now.

Q You went there after the war? A I went there several times in the summer, I think I traded for the place along in August, during the summer of '67. Summer of '66 after this Treaty was made on the 19th of July, 1866.

Q You moved up there close to where Joe Lynch now lives in December, 1867? A '66.

Q December, 1866? A Yes sir.

Q You knew Mr. Clark where Simon Lynch was living when you moved up there, did you? A Yes sir, I let him move over there on my place, after I got it.

Q From your knowledge of the people and condition as they were and the nature of the country, can you state to this Commission positively that Joe Lynch and his family did not come to that neighborhood in the Cherokee Nation until about 1868? A 1868 or '69.

Q If at any time after December, 1866, the applicant and his family had come to that portion of the Cherokee Nation, you think you would have known it? A Yes sir, known it after a day.

Q You don't know as to whether or not Joe Lynch himself might not before at Simon Lynch's horse back in the fall of '66 and stayed three days as they claim? A Might have been at Simon's, but he wasn't living there in the fall, he was over at the other place about six miles from there, he might have been there. This road that I told you that runs to this trading point, he lived about a mile from that down in the bottom, right above where the Military road crossed Cabin Creek.

Q How far from where he lives now? A I suppose it is four or five miles on a direct line now since the lines were run out.

Q Did you ever have a conversation with Joe Lynch shortly after his first trip to the Cherokee Nation after the war? A No sir.

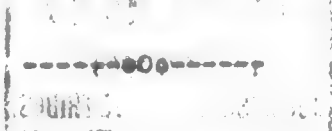
Q You never heard him say whether or not that was his first trip? A I don't know as I ever did.

Q Do you know whether in the fall of 1866 that he made any foundation of a house? A He never made none there where he is living now.

Q How old was this child that Joe Lynch and his wife brought there with them? A It seemed to be his wife's lap.

Q A year old probably? A I don't think it was a year old. I don't think he let them get a year old before he had another one.

CASE CLOSED.



H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct copy of his stenographic notes thereof.

H. M. Vance.

Subscribed and sworn to before me this 14 day of December, 1904.

(SEAL)

Charles W. Sawyer,
Notary Public.

Opal Griegs being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she made the above copy and that the same is a full, true and correct copy of the original transcript.

Subscribed and sworn to before me this 20th day of December, 1904.

Charles W. Sawyer
Notary Public.

135-17

COMMISSION TO FIVE TRIBES

DEC 17 1904

COMMISSION TO FIVE TRIBES

135-17

COMMISSION TO FIVE TRIBES

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RECEIVED
DEC 17 1904
COMMISSION TO FIVE TRIBES.

COMMISSION TO FIVE TRIBES

135-17

Cherokee Freedman D-387

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., NOVEMBER 17, 1904/.

SUPPLEMENTAL PROCEEDINGS HAD IN THE MATTER of the application for the enrollment of Vina Benton, et al., as Cherokee Freedmen.

APPEARANCES:

Applicant appears by Attorney, A. S. McRea,
Cherokee nation by Attorney, W. W. Hastings:

BY MR. MCREA:

Come now the attorney for the applicant and asks that a copy of the testimony taken in the matter of the application of Joe Lynch, et al., Cherokee Freedman D-376, be made a part of the record in the matter of the application for the enrollment of Vina Benton, et al., Cherokee Freedman D-387.

BY THE COMMISSION:

The request of the attorney for the applicant will be complied with and copies of the testimony referred to will be filed with and made a part of the record in this case.

-o-o-o-o-o-o-o-o-

H. H. Vance, being duly sworn, states that as stenographer to the Commission to the five civilized Tribes, he reported in full all proceedings had in the above entitled cause on the 17th day of November, 1904, and that the above and foregoing is a full true and correct transcript of his stenographic notes of said proceedings on said date.

Subscribed and sworn to before me this 17 day of November, 1904.

Charles H. Sawyer
Notary Public.

A. F. No.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Joe Lynch, et al., as Cherokee Freedmen, consolidating the appli-
cations of:

Joe Lynch et al.	Cherokee Freedmen	D	576
Robert Foster,	"	"	522
Hester Foster et al.,	"	"	363
Arthur Lynch,	"	"	364
Cyrus Lynch	"	"	365
John Lynch	"	"	366
Vina Denton et al.,	"	"	367
Honey Gule et al.,	"	"	429
Rachel Downing et al.,	"	"	430
Martha Lynch et al.,	"	"	1977.

-: D E C I S I O N :-

The record in this case shows that applications for en-
rollment as Cherokee freedmen were made to this Commission by
Joe Lynch for himself and wife, Sophia Lynch, and minor children,
Eliza, Cynthia J. (Jame), Randolph, Ruth and Jackson Lynch; by
Robert Foster for himself; by Hester Foster for herself and minor
children, James, Pearlle J. (Jame), Ethel J. (Jame) and Josephine
Foster; thereafter, on October 20, 1902, there was filed with
this Commission an affidavit showing the birth, on March 20, 1902,
of Arthur Foster, child of the applicant, Hester Foster; by Ar-
thur Lynch for himself; by Cyrus Lynch for himself; by John Lynch
for himself; by David Denton for his wife, Vina Denton, and minor
child, Stella Denton; by Honey Gule for herself and illegitimate
minor child, Lula Darrington; by Walter Downing for himself, and

wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; thereafter, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 24, 1902, of Hubert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Lee B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curl, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Lee B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Hubert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on Motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 18, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curl, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Lee B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said appli-

cants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Harbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1886, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, John and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curle and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedmen enrollment cards No. D 429 and D 1677, it appears that one John Buffington is the father of the said applicant, Lula Buffington, and that one Watson Hicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Lee B. (Bennett) Lynch. But one John Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 558-R 271), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Hicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I. T. D. 844-04), William Foster (I. T. D. 1468-04) Minnie Duncan, et al. (I. T. D. 1470-04), Samantha Chambers (I. T. D. 2296-04), Ed Williams (I. T. D. 4230-04), Martha Albert, et al. (I. T. D. 4732-04) and Moses Ross (I. T. D. 6086-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Hester Foster, James Foster, Pearlle J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and John Lynch, Vina Benton and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Lee B. (Bennett) Lynch, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the Act of Congress below noted; and that Harbert Downing

should be enrolled as a Cherokee freedman, in accordance with the provisions of section twenty-one of the Act of Congress approved June 20, 1906 (34 Stat. 400), and it is so ordered.

WITNESSED TO THE FIVE CIVILIZED TRIBES.

(Signed) Wm. D. Dwyer
Chairman.

(Signed) T. B. Hurdles
Commissioner.

(Signed) T. B. Hurdles
Commissioner.

Dated at Muskogee, Indian Territory,

this JUN 16 1906

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al.,
for enrollment as Cherokee freedmen, consolidating the applications
of:

Joe Lynch et al	Cherokee Freedmen D 376
Hester Foster et al	Cherokee Freedmen D 383
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Benton et al	Cherokee Freedmen D 387
Nancy Curle et al	Cherokee Freedmen D 428
Rachel Downing et al	Cherokee Freedmen D 430
Martha Lynch et al	Cherokee Freedmen D 1077.

D E C I S I O N.

The record herein shows that applications for enrollment, as Cherokee freedmen, were made to this Commission by Joe Lynch for himself, his wife, Sophia Lynch, and minor children, Eliza, Cynthia, J., Randolph, Ruth and Jackson Lynch; by Hester Foster for herself and minor children, James, Pearlle J., Ethel J. and Josephine Foster; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission showing the birth of Arthur Foster; by Arthur Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and minor child, Lula Buffington; by Walter Downing for himself and wife, Rachel Downing; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Hurbert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Martha Lynch for herself and minor children, Jessie M. and Lee B. Lynch.

The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitacre, trustee, etc., vs Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1866 and are descendants of and, with the exception of Hurbert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of none of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Hurbert Downing was born April 26, 1902; that he is the son of Walter Downing who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored," and that the said Walter Downing, father of said Hurbert Downing, has continuously resided in the Cherokee Nation since 1880.

It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Walter Foster, James Foster, Pearlie J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Nina Denton, Stella Denton, Nancy Harris, Julia Luffington, Samuel Leaning, Martha Lynch, Jessie M. Lynch and Lee M. Lynch, as Cherokee freedmen, should be denied under the provisions of section twenty-one of the act of Congress approved June 26, 1906 (34 Stat., 445); and it is further the opinion of this Commission that the said Arthur Leaning should be enrolled as a Cherokee freedman, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Signed.	James Hixby,	Chairman.
Signed	T. B. Needles,	Commissioner.
Signed	C. R. Breckinridge,	Commissioner.
Signed	W. E. Stanley	Commissioner.

Witness, Indian Territory,
this 10th day of June, 1914.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
(in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901.

Given under my hand this.....
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

12 day of Sept., 1901.

A. S. M. R. R.

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A. D. 1901

Subscribed and sworn to before me
this..... day of..... A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP-12-1901

THE INTERIOR
CIVILIZED
TRIBES

NOTICE!

IN THE MATTER OF The application of **Vina Benton**
for enrollment as a Cherokee Freedman:

Case No. F. D. **387**

To **Vina Benton or A. S. McRea**

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of **Vinita, Indian Territory**, Indian Territory, on the following dates, to-wit: **1st Oct.** **at 8 o'clock A. M.**
A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this **12th** day of **Sept.**, 1901.

L B Bell

Attorneys for the Cherokee Nation.

COPY.

Charles Friedman
20 *4387*

b.

IN RE

Application for Enrollment of
INFANT CHILD

Stella Benton

as a citizen of

Cherokee

Nation

Approved JUL 8 1901 190

C. R. Breckinridge.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED

JUL 8 1901

[Signature]
CHAIRMAN.

BIRTH AFFIDAVIT.

COPY.

Friedman

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Stella Benton (Here insert name of child.) born on the 8 day of May, 1901
Name of Father: Sam Benton a citizen of the U. S. Nation.
Name of Mother: Vina Benton a citizen of the Cherokee Nation.
Postoffice: Vinita I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Vina Benton, on oath state that I am 20
years of age and a citizen by adoption of the Cherokee Nation;
that I am the lawful wife of Sam Benton, who is a citizen, by
of the United States Nation; that a female child was
(Male or Female.)
born to me on 8 day of May, 1901; that said child has been named
Stella Benton, and is now living.

WITNESSES TO MARK:

Vina Benton

(Must be Two Witnesses.)

Seal.

Subscribed and sworn to before me this 29th day of June, 1901.My Com. exp. May 3rd 1904.J. M. Smith

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Mary Brown, a midwife, on oath state that I
attended on Mrs. Vina Benton, wife of Sam Benton
on the 8 day of May, 1901; that there was born to her on said date a female
(Male or Female.)
child; that said child is now living and is said to have been named Stella Benton.

WITNESSES TO MARK:

Mary Brown

(Must be Two Witnesses.)

Subscribed and sworn to before me this 22nd day of May, 1901.

Seal.

Geo. McCulloch

Notary Public.

My Com. Exp. 4/24/1903

910387

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Wm. Benton,

White, I. T.

Cherokee P-1-37.

Register.

TAMS BIXBY,

T. B. NEEDLES,

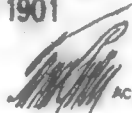
C. R. BRECKINRIDGE,

Commissioners.

73. F. D. 317

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
MAY 22 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

Post Office

District

Age

Citizenship

1. Name

Owner's name

Year

Page

No.

District

Parents:

Father

Mother

1. Name of wife

Owner's name

Year

Page

No.

District

Parents:

Father

Mother

2. Names of Children

Year

Page

No.

Dist.

Year

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Year

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Year

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No.

Dist.

Application made by

Stenographer

1. On Wallace roll as Vina Lynch
 2. aff. of birth required.

Ref D376

A. S. McKee, Atty. for applicants

COPY.

Cherokee Freedmen

D-387.

Muskogee, Indian Territory, March 27, 1906.

Blue & Bulger,

Attorneys for Jim Alberty, et al.,

Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of supplemental testimony taken at Muskogee, Indian Territory, on March 9, 1906, in the matter of the application for the enrollment of Jim Alberty, et al., as Cherokee freedmen, together with a blank form of receipt which you are requested to sign and return to the Commission.

Respectfully,

Incl. 3-99.

SIGNED.

Tams Dixby

Chairman.

Copy
Cherokee Freedmen
D 387

Muskogee, Indian Territory, May 17, 1904.

David Benton,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., rejecting, among others, your application for the enrollment of your wife, Vina Benton, and your minor child, Stella Benton, as Cherokee freedmen. There has this day been forwarded to your attorney, A. S. McKee, Muskogee, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

James H. Hooton

Encl. V-39

Register.

Chairman.

COPY.

Cherokee Freedmen
D 378, et al.

Muskogee, Indian Territory, May 17, 1904.

A. S. McLean,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 304, 306, 307, 420 and 430, together with a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch, Foster, James, Pearl J., Ethel J., Josephine and Arthur Foster, Arthur Lynch, John Lynch, Vinn and Stella Benton, Nancy Gule, Lula Buffington and Rachel Downing, as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 378 and 382.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. V-44
Registrar

Chairman.

Cherokee Freedmen
D 376, et al

Muskogee, Indian Territory, May 17, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Joe Lynch, et al., including the Commission's decision dated April 20, 1904, granting the application for the enrollment of Herbert Downing as a Cherokee freedman and rejecting the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth, Jackson, Arthur and John Lynch, Hester, James, Pearlis J., Ethel J., Josephine and Arthur Foster, Vina and Stella Benton, Nancy Carls, Lula Buffington, Rachel Downing, and Martha, Jessie M. and Leo B. Lynch as Cherokee freedmen.

Respectfully,

Jame Dixby.

Encl. V-45

Chairman.

Through the
Commissioner of Indian Affairs.

Refer to reply
to the following:
Land,
33474-1904.

(C O P Y)

CFL

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

July 15, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized tribes dated May 17, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Joe Lynch for himself, his wife, Sophia Lynch and his five minor children, Eliza, Cynthia J. Randolph, Ruth and Jackson Lynch; of Hester Foster for herself and her four minor children, James, Pearlle J. Ethel J. Josephine and Arthur Foster; of Arthur Lynch for himself; of David Benton for his wife, Vina Benton, and minor child, Stella Benton; of Nancy Curle for herself and her minor child, Lula Buffington; of Rachel Downing for herself and her minor child, Herbert Downing; and by Martha Lynch for herself and her minor children, Jessie M. and Lee B. Lynch.

March 5, 1904, the Commission decided that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that none of the applicants are identified on the 1880 authenticated Cherokee roll, but all who were then living are found on the roll of citizens of the

Cherokee Nation; that the applicants, Joe Lynch and his wife Sophia Lynch were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and returned prior to February 11, 1867, established a home and have resided in the Cherokee Nation to the date of the record. The other applicants are descendants of Joe and Sophia Lynch and their sole title to enrollment is derived from them. The only question in the case appears to be when Joe and Sophia Lynch returned to the Nation, and the testimony of Joe Lynch is sustained by that of Allen Lynch and Anderson Lynch who swear that he returned prior to February 11, 1867.

On the part of the Cherokee Nation, G. L. Lynch testifies that he did not see the principal applicant, Joe Lynch, until 1901; Joseph L. Thompson that he did not see him until 1888; Walter A. West, did not see him until 1888.

The witness, Moss Craven, introduced by the Cherokee Nation, swears that he knew Joe and his wife, Sophia Lynch in Iola, Kansas, from 1866 to 1874 or 5, and they had twenty-two children at that time. The testimony of this witness is not satisfactory and in pertinent particulars he appears uncertain.

It appears that the Cherokee Nation conceded from the testimony of their own witnesses that Joe Lynch was in the Nation in 1866 with his wife, Sophia and Children, and as it is shown in evidence that Sophia was but seventeen years of

-4-
age at that date, the testimony of the witness, Brown, that
she had twenty-two children at any time when he swore that
he knew them, between 1865 and 1875, is a manifest falsehood.

In view of the reasons it is recommended that the Com-
mission's decision adverse to the applicants be reversed,
and the applicants enrolled as Cherokee freedmen.

Very respectfully,

A. C. Tanner

Acting Commissioner.

H.M.M.

V

1 encl.

D.C. 26621-1904.
L.T.D. 3794-1904.
L R S

J.P.
J.H.

DEPARTMENT OF THE INTERIOR,

WASHINGTON, July 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

July 15, 1904, the Acting Commissioner of Indian Affairs submitted the Cherokee Freedmen case consolidating the applications of Joe Lynch, et al; Nester Nester, et al; Arthur Lynch; John Lynch; Vinn Benton, et al; Nancy Curie, et al; Rachel Downing et al; and Martha Lynch, et al, and recommended that your decision adverse to the applicants be not concurred in and that you be directed to enroll such applicants.

Accompanying the papers is a motion for a rehearing, filed in the Indian Office by Joe Lynch for himself and the other applicants who claim through him, with letter from George P. Togie, of Vinita, Indian Territory, of June 8, 1904, which is not mentioned by the Acting Commissioner.

The Department does not feel warranted in reversing your decision upon the testimony presented.

The motion for rehearing bears no evidence of service upon the attorney for the Cherokee Nation, but in view of the showing made thereby, and particularly of the recommendation of the Indian Office, the Department deems it advisable to order a rehearing in the case, and the same is hereby directed.

-2-

A copy of the Acting Commissioner's letter, and the testimony with papers attached, also the application for rehearing with affidavits attached, are inclosed.

Respectfully,

(Signed) Thos. Ryan.

Acting Secretary.

3 inclosures.

Cherokee Freedmen

D-387.

Muskogee, Indian Territory, August 10, 1904.

David Benton,

Vinita, Indian Territory.

Dear Sir:

In the matter of your application for the enrollment of Vina and Stella Benton as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of July 21, 1904, remanding the Commission's decision of April 20, rejecting your said application.

It is stated in said letter that the Commissioner of Indian Affairs recommends that the Commission's decision be reversed and the applicants be enrolled as Cherokee freedmen, and according to instructions contained therein you are hereby advised that you will be allowed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Monday, September 19, 1904, and introduce the testimony of such witnesses as you may be able to procure in support of your said application.

Respectfully,

Register.

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-387

Muskogee, Indian Territory, October 13, 1904.

A. S. McRea,

Attorney for Vina Benton, et al.,
Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Vina Benton, et al., as Cherokee freedmen, you are advised that this case will be taken up for final consideration at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Thursday, November 17, 1904.

David Benton, husband of the said Vina Benton, has this day been notified that he will be permitted to appear on said date and introduce such testimony as he may desire in support of said application.

Respectfully,

Register.

(SIGNED) *T. B. Nettles.*
Commissioner in Charge.

COPY.

Cherokee Freedmen
D-387

Muskogee, Indian Territory, October 13, 1904

David Benton,

Vinita, Indian Territory .

Dear Sir:

In the matter of your application for the enrollment of Vina and Stella Benton as Cherokee freedmen, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Thursday, November 17, 1904, at which time you will be permitted to appear and introduce such testimony as you may desire in support of said application.

Respectfully,

Register.

(SIGNED) *T. B. Needles.*
Commissioner in Charge.

COPY.

Cherokee Freedmen

D-287.

Muskogee, Indian Territory, June 16, 1906.

Vina Benton,

Vinita, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, rejecting, among others, the application for the enrollment of yourself, et al., as Cherokee freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-27
Register

(SIGNED)

Tams Dixie
Chairman.

COPY.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1906.

A. S. McRea,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Hurbert Downing, and rejecting, among others, the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-31.
Register

WED: *Tamc Kirby*
Chairman.

COPY:

Cherokee Freedmen
D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee Freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-33.

(SIGNED) *Tams Bixby*
Chairman.

COPY.

Cherokee Freedmen
D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee freedmen, including the Commission's decision dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

On July 21, 1904, the Department remanded this case for rehearing and readjudication.

Respectfully,

Incl. 3-34.

Signed, *James Bixby*
Chairman.

Through the

Commissioner of Indian Affairs,

744r.

DEPARTMENT OF THE INTERIOR, LLS

D.O. 1778-1907
I.T.D. 8180-1906

WASHINGTON.

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8589-
8737-
8738-

Jan. 4 - 1907

LLS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 11, 1905 (Land 47287), the Indian Office submitted the record in the matter of the application for enrollment as Cherokee freedmen by Joe Lynch for himself and wife, Sophie Lynch, and minor children, Eliza, Cynthia Jane, Randolph, Ruth, and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle Jane, Ethel Jane, Josephine, and Arthur Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vian Benton, and minor child, Stella Benton; by Wacey Curie for herself and illegitimate minor child, Lula Duffington; by Walter Downing for his wife, Rachel Downing, and his minor child Harbert Downing, and by Martha Lynch for herself and her illegitimate minor children, Jessie May and Lee Bennett Lynch, including the decision of the Commission to the Five Civilized Tribes dated June 16, 1906, favorable to Harbert Downing and adverse to all other applicants.

There appears to be no proper reason for granting said motion, and it is hereby denied.

The Department concurs in the recommendation made, and the Commission's decision is hereby affirmed.

The papers in the case, including said motion for review, have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 incl. and 3 to Ind. Of.

Cherokee F.
D-387

Muskogee, Indian Territory, January 18, 1907.

Vina Benton,

c/o David Benton,

Chaffee, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for the enrollment of yourself and child, Stella Benton, as Cherokee freedmen, was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the Cherokee freedmen enrollment case of yourself, et al., filed by your attorneys September 7, 1905, denied.

Respectfully,

JMH

Commissioner.

Charles F.
D-376 et al.

Muskogee, Indian Territory, January 18, 1907.

Blue & Bulger,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed by you September 7, 1906, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. N-54
JMH

Commissioner.

Cherokee F.
D-576 et al.

Muskogee, Indian Territory, January 18, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. H-55
JMH

Commissioner.

ORIGINAL
COPY
1902



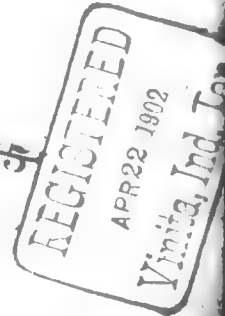
Department of the Interior.

Commission to the Five Civilized Tribes.

MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, \$300.



Mrs. Vinita Benton,
Indian Territory.

UNCLAIMED

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Cher. Fr. R-884

Trans. from Cher. Fr. D 393

Cher. Fr. R-884

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F. D-322.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 22, 1902.

In the matter of the application of Jacob Bean for the enrollment of himself and children as Cherokee Freedmen.

SUPPLEMENTAL TO D-322.

Cherokee Nation appears by W. W. Hastings.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the said Jacob Bean that it would at the office of the Commission to the Five Civilized Tribes in the town of Muskogee, Indian Territory, introduce testimony tending to disprove his right to be enrolled as a Cherokee Freedman. The applicant has this day been called and fails to respond, either in person or by attorney.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Supreme Court of the Cherokee Nation as taken from a book taken from the records of the Executive Department of the Cherokee Nation, entitled Docket of Doubtful Cases for Cherokee Citizenship, from Saline District, as follows:

"No. 64, Jacob Bean and family.
Decided against defendants June 2, 1891."

The Cherokee Nation also asks that the testimony introduced in the case of F. D-322 be introduced and made a part of the record in this case. The Cherokee Nation also asks that the statement of Wat West, filed in F. D-321, be filed with and made a part of the record in this case.

COMMISSION: The request of the Nation will be complied with and the testimony filed.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 7th day of July, 1902.

Leah

Notary Public

RECEIVED

UNITED STATES DEPARTMENT OF JUSTICE

TO THE HONORABLE ATTORNEY GENERAL
FROM THE HONORABLE ATTORNEY GENERAL
SUBJECT: [illegible]

THE HONORABLE ATTORNEY GENERAL

THE HONORABLE ATTORNEY GENERAL

FILED

JAN 6 1908

COMMUNICATIONS

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., DECEMBER 21, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of JACOB BEAN ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, J. J. Bulger.
For Cherokee Nation? J. S. Davenport.

The records of this office show that on December 7, 1905, this case was heard in part and continued by agreement until December 21, 1905, at which time the following proceedings were had.

SAM VANN, being first duly sworn, testified as follows:

BY MR. BULGER:

- Q What is your name? A Sam Vann.
- Q What is your post office? A Chaffee.
- Q How old are you? A I don't know exactly, about 50 years old.
- Q When were you born? A I couldn't tell that.

ON BEHALF OF THE COMMISSIONER:

- Q Are you in the neighborhood of 40? A Well I was born before the war a good while.

BY MR. BULGER:

- Q Were you a slave of a Cherokee before the war? A Yes sir.
- Q Where did you live? A On Spring Creek.
- Q Where is that? A In the Cherokee Nation.
- Q Did you go out of the nation during the war? A Yes sir.
- Q Did you return to the nation after the war? A Yes sir.
- Q When? A In 1866, the fall.
- Q What is there that causes you to remember that was 1866? A We come down here in the spring of '66 and put in a crop and then went back in the fall afterwards, me and Pig Vann, a brother of mine.
- Q Were there anything out of the ordinary happened while you were coming down? A Yes sir, they killed about three fellows up there at Horse Creek.
- Q That is what was known as the Horse Creek fight? A Yes sir.
- Q Do you remember that distinctly? A Yes sir.
- Q Where did you move to at that time? A Over there about 10 miles east of the Orphan Asylum on Spring Creek.
- Q How long did you live there? A I don't know just how long it was.
- Q What time of the year was it you got to Spring Creek? A It was along the latter part of September or first of October, 1866? A Yes sir.
- Q Were you living,-- are you acquainted with Bertha Bean, daughter of Jake Bean? A Yes sir.
- Q Are you acquainted with Jake Bean? A Yes, sir.
- Q Were you acquainted with Bertha's mother, Judie? A Yes sir.
- Q Were you acquainted with her parents? A Acquainted with her mother but not her father, her father died before we moved up

there on Lynch Prairie.

Q Are you acquainted with any of her brothers and sisters? A All of them.

Q Who are they? A Jesse is one.

Q Jesse who? A Jesse Vann, Jesse is a Vann, he is just a half brother to Jake's wife.

Q Name the rest of the children? A

Mr. Davenport: The representative of the Cherokee Nation objected to that, let him tell what he knows about these facts.

On Behalf of the Commissioner: Objection noted.

Q When did you know of Steve Lynch, that is the father of Judie Bean living in the Territory after the rebellion? A Long in about '68, when I got acquainted with Judie.

Q Had you understood where they lived previously to that time?

Mr. Davenport: I object to that, it is incompetent, irrelevant and immaterial.

On Behalf of the Commissioner: Objection noted.

A Just been living on the river all the time, on Lynch Prairie.

Q Did you know any of the family before that time? A I knew Jesse.

Q Is he now alive? A Yes sir.

Q Was he a minor at that time, that is under age?

Mr. Davenport: I object to that, it is incompetent in this case and I object to the fishing in this case to try to find out something in another case.

On Behalf of the Commissioner: Objection noted.

A Jesse was older than I was, we were boys together.

Q About how old were you do you think? A I don't know just how old I was.

Q Guess at it? A Long about 15 years I guess.

Q Where did you know Jesse then? A Knewed him on Spring Creek.

Q When did you know him first? A In the winter of '66 when he come down there.

Q Where did he come? A I said he come from off the river.

Q Whose place did you understand he came from?

Mr. Davenport: I object to what he understood about it.

On Behalf of the Commissioner: Objection noted.

A He told me that he come from up there-----

Mr. Davenport: I object to what he told as that is a declaration.

On Behalf of the Commissioner: Objection noted.

Q When was this declaration made? A In the winter of '66.

Q Did he say where his father lived at that time?

Mr. Davenport: I object to that, what he was told.

On Behalf of the Commissioner: Objection noted.

A Jesse told me his father lived on Lynch's Prairie.

- Q When was this Jesse came down to your Uncle Gilbert's? A In the winter of '66.
- Q Do you remember what month? A It was long either a little before Christmas or after Christmas.
- Q How long did you remain there? A There all winter and somewhere in '67 he left.
- Q Did you move away from that Spring Creek neighborhood after that? A Yes sir, we moved away.
- Q To where did you move? A Up on the river.
- Q Where? A On the north side of Island Ford there.
- Q Is that in the Cherokee Nation? A Yes sir.
- Q What year was this you moved up there on Grand River to Island Ford? A I don't know, it was along up in about '69 I guess when we moved up there.
- Q Did you find Stephen Lynch and his wife living up there at that time? A Yes sir, the old lady was living, Uncle Steve was dead, they were living there at the old place on Lynch Prairie.
- Q Are you acquainted with Jacob Bean, the father of this Bertha Bean? A Yes sir, I am acquainted with him, lived within a half mile of him.
- Q How long have you known him? A About, I don't know how long, about 35 years I guess.
- Q How long after your return to the Cherokee Nation did you become acquainted with him? A Along in about '68.
- Q Had you been up there on Grand River at Island Ford prior to that time? A No sir, never was up there until we moved, got acquainted with him working over there on Big Spring Creek at Joe Downing's Mill.
- Q Were you working there? A No sir, Jack and them were.
- Q Had you moved down to the Spring Creek country prior to New Years 1867, that is the first day of the year 1867, a week after Christmas 1866? A We moved there in the fall of 1866.
- Q Were you living there at New Years time? A Yes sir, we were living there.
- Q Was there anything happened about that time that causes you to remember this time? A Yes sir, Uncle Riley and old Uncle Nathan had a watch meeting there.
- Q Uncle Riley who? A Nowair.
- Q Nathan who? A Nathan Turner.
- Q A watch meeting there? A Yes sir.
- Q Are you acquainted with Walter West? A Watt West.
- Q Yes? A Yes sir.
- Q How long have you known him? A About 30 years I guess, I got acquainted with him.
- Q Do you know anything about his feeling toward the Cherokee freedmen? A No sir, I don't know, he never said as I know of.
- Q Is he prejudice or not against the freedmen? A Yes sir, he is pretty prejudice fellow toward the freedmen.
- Q Are you acquainted with Tom Monroe? A Yes sir, I am acquainted with him.
- Q How long have you known him? A About 35 years.
- Q Is he a Cherokee? A Yes sir, he is a Cherokee.
- Q Do you know whether or not he is prejudice against the freedmen? A Yes sir, he is a little prejudice I think.
- Q Do you know G. W. Clark? A Yes sir, I know Judge good.
- Q How long have you known him? A About the same as I knowed Tom. About 35 years I guess, he used to be a Judge there.
- Q Do you know whether or not he is prejudice against the freedmen? A Yes sir, he kinder showed it when he used to be a Judge.
- Q What did he do? A He wouldn't have anything to do with them boys that were arrested up there them Lyons boys.
- Q Who were they? A Ed Lyons and Watt Lynch.

- 4-
- Q Tell about it? A They arrested them there for stealing some rails from Mrs. Downing and brought them up before the court, they were on the doubtful list, Judge said he wasn't making any more rolls for the Cherokee Nation.
- Q What Lyons boy is that? A Ned Lyons.
- Q Who arrested them? A Marshal Landrum arrested them.
- Q Who were the prisoners? A Watt Lynch and Ned Lyons and Elias Lyons.
- Q Sam are you positive that Jesse Vann lived with your Uncle in January, 1867? A Yes sir, I know the reason cause me and Jesse were together that winter, worked together.

BY MR. DAVENPORT:

- Q You were a very small boy when the war began? A I was big enough to know when I drew my clothes when I went out to Fort Scott.
- Q What year did you go to Fort Scott? A I don't know just what year it was.
- Q What year was it when you drew your clothes? A I guess it must have been along in '61 or '62, somewhere along there.
- Q I don't want you to guess at it, you have told us positive about other years, now what year did you go to Fort Scott? A I don't know what year, I think it was along in '62, or '61, couldn't read or can't write to keep any count of the days.
- Q You said you couldn't read then you haven't kept any count of the years since that time? A Only by what I heard talking, what year it was.
- Q How what year did they tell you it was you drew your clothes at Fort Scott? A I think it was in '61.
- Q How many years did you live at Fort Scott? A We never lived at Fort Scott at all, we were just passing through.
- Q Where did you go? A Up there on the Mariadeocynne River now.
- Q You speak of George Clark being prejudice, now did you know of him being prejudice in anything else except in the case where the Lyon boys and Watt Lynch were accused of stealing from Jesse Daniels, and he refused to take jurisdiction because they were not on the 1880 roll? A When he made that roll, when they put us on the Authenticated roll he said they were too many niggers to go on the roll.
- Q You heard him? A Yes.
- Q Who was he talking to? A He was talking there in the house.
- Q Why didn't you tell that while ago if that was one of the prejudices instead about the Lyon boys? A He never asked me.
- Q As a matter of fact Judge Clark refused to take jurisdiction in the case of the Lyon boys and Watt Lynch because they were not on the 1880 roll? A I don't know.
- Q You know they are not now? A I don't know, they are on the Wallace roll all right.
- Q What year was the Wallace roll made? A I couldn't tell.
- Q What year was the Kern-Clifton roll made? A I couldn't tell that.
- Q You were a grown man when both of these rolls were made? A Yes sir.
- Q And can't tell the year? A No sir.
- Q Still you undertake to tell the year the conversation that took place when you were a boy? A Yes sir.
- Q You speak of Tom Monroe, I will ask you if he isn't considered in the community in which he lives as being one of the most reliable men in the community for filling his financial obligations as well as his moral obligations? A I don't know.
- Q Do you know of any man in the community in which he lives that doubts his work if he tells him he will pay him at a certain time? A I don't know any.

- Q Do you know of a man that ever accused him of being dishonest?
A No sir.
- Q Do you know of anybody that says that Uncle Watt West is dishonest? A Yes sir, several of his neighbors.
- Q Who is that? A Tom Eaton and -----
- Q The man you have named either claims for citizenship or supporting some fellow that was a claimant for citizenship? A Tom aint.
- Q George Clark has lived in that locality where it is claimed you returned ever since shortly after the war, hasn't he? A No sir, when we moved there George wasn't up there in the neighborhood where we were living.
- Q You went to Spring Creek first? A Yes sir.
- Q Then you went back to Spavinaw or the old Lynch neighborhood?
A Yes sir.
- Q Where was George Clark living in 1869 when you went to the Lynch place? A I don't know, never knew him then.
- Q Where was Lon Lynch living? A I don't know, never got acquainted with him until two or three years ago.
- Q Do you know where the old Lynch place was? A Yes sir.
- Q Judie's father was living about the Lynch place? A No sir, below there about a mile and a half.
- Q You never saw either of the parents of these applicants until about 1868 or 1869 in the Cherokee Nation? A No sir.
- Q And you think that you are now about 50 years old? A Yes sir.
- Q Your age was given when you applied for enrollment in 1901 as being 40 years of age, that is about 4 years ago, do you think that was right? A Yes sir.
- Q That would make you now about 44 or 45? A Yes sir.
- Q When you returned after the war to the Cherokee Nation you could not have been over 7 or 8 years old? A Yes sir, I was older than that, they just put my name down younger than I was cause I can remember things, Tom and Bob only stayed away less than a year after that fight.
- Q I am not asking about that fight and the killing I am asking you about what age you were. Now where were you living in 1870?
A We were living on the river.
- Q What river? A Grand river.
- Q You remember distinctly a boy that you were these conversations that you have told? A Yes sir.
- Q Have you ever testified in this case before? A No sir.
- Q You have lived up there in that community ever since the war or shortly thereafter? A Yes sir.
- Q Have known that these people were on the doubtful roll? A Yes sir.
- Q And never did testify for them before until this time? A No sir.
- Q They had a hearing once before the Wallace Court didn't they?
A Yes sir.
- Q And the Wern-Clifton Court? A Yes sir.
- Q And then this Commission has been making a roll for nearly four years and you never testified? A No sir.
- Q What year did the Commission commence making the freedmen roll, this present Commission? A Why I don't know just when, or what year it was.
- Q It hasn't been near so long since they began that as it has since the war closed has it? A No sir.
- Q You were as much interested in the making of this last freedmen roll as you were in 1866 were you? A I aint made many testimonies here for any one.
- Q I say you were as much interested in the making of this roll as you were in 1866? A Yes sir.

- Q And it is nearly 40 years later and you can't tell me what year they began? A No sir.
- Q And now you undertake to tell you remember in 1866 when you were a mere boy? A Yes sir, I recollect that.

BY MR. BULGER:

- Q Why do you recollect that? A Cause in '66 Uncle Gilbert come ahead of us to see something about putting in a crop and come back and moved us.
- Q And you were in the Horse Creek fight? A Yes sir.
- Q How long after the Horse Creek fight until you saw Jesse Vann? A It was that winter, '66.
- Q Why is it you remember it distinctly as 1866? A Cause we were talking about it, that is old man Gilbert was, we was talking about it and they said it was '66.
- Q Were the freedmen older than you discussing the question about the return to the Cherokee nation at that time? A Yes sir.

BY MR. DAVENPORT:

- Q Then you are testifying from what somebody else told you and not from your own knowledge? A I heard it.
- Q I am not asking about that, you are testifying from what some one else told you? A Yes I know it.
- Q Why did your uncle Gilbert come down in 1866? A Cause he told him he just had a certain time to get back. He come down and old man Rowe furnished him teams to go and get his family.
- Q They told him it was necessary for him to go back in order to protect his rights? A Yes sir.
- Q And he came in the spring of 1866 and made a crop? A Yes sir.
- Q And went back that fall? A Yes sir.
- Q Where was he living up in Kansas at that time? A Yes sir, up in Kansas.

BY MR. BULGER:

- Q Who told him this? A I forget the fellow's name.
- Q Did you hear anybody tell him? A No sir, I ~~remembered~~ didn't hear anybody tell him, just what I heard the boys talking after he left.

ON BEHALF OF THE COMMISSIONER:

- Q Is Bertha Bean living now? A Yes sir.
- Q Is she married? A ~~Yes~~ No sir.
- Q She has a child named Willie Vann? A Yes sir.
- Q Is that child ~~not~~ living? A Yes sir.
- Q Who is the father of that child? A I don't know who.
- Q Bertha Bean ever been married? A No sir.
- Q Do you know who is the reputed father of that child? A Yes sir, she says it is mine but I never had anything to do with her in my life.
- Q Do you know it is not your child? A Yes sir.
- Q You are a married man? A Yes sir.
- Q You have been married for the last 10 or more years? A About 25 years.
- Q And you know that Willie Vann, child of Bertha Bean, is not your child? A Yes sir.

BY MR. BULGER:

- Q You are the one that is accused of being the father of that child? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

- Q You and Bertha never cohabited did you? A No sir, I never did bether her.
- Q You are the Sam Vann that was listed on Cherokee Freedman card 740 and who has children, Dennis, Lula, Ulysses, Bruce, and Nola?
- A Yes sir.

WITNESSES EXCUSED.

COLUMBUS MCNAIR, being first duly sworn, testified as follows:

BY MR. BULGER:

- Q What is your name? A Columbus McNair.
- Q What is your post office address? A Vinita.
- Q What is your age? A 55.
- Q Are you a citizen of the Cherokee nation? A Yes sir.
- Q Are you identified upon any roll as such? A Yes sir.
- Q What roll? A 1880.
- Q Have you been enrolled by the Dawes Commission? A Yes sir.
- Q Were you a slave of a Cherokee at the commencement of the rebellion? A Yes sir.
- Q Did you remain in the Cherokee nation during the rebellion?
- A No sir, I went to Texas in '62.
- Q Did you ~~return~~ return from the State of Texas to the Cherokee nation? A I come to the Choctaw Nation and stopped there in the Choctaw nation until the spring of '66 and I come on up here.
- Q Up where? A To the Cherokee nation.
- Q Where did you come to in the spring of 1866 in the Cherokee nation, what particular point? A Down in Sequoyah District for awhile and then from there on up here.
- Q What do you mean by up here? A I mean up in the upper part of the Cherokee nation.
- Q To whose place? A To Kells.
- Q Which Kell? A Lewis.
- Q About when did you come up to Kells? A In November.
- Q What year? A Fall of '66.
- Q About what distance and what direction is Lewis Kell place from Island Ford on Grand River? A A little northwest about two miles.
- Q How far is it from the old Joe Lynch farm? A I guess it must be about 3 or 4 miles over there, 3 miles any how.
- Q Were you in the vicinity of the Joe Lynch farm during the ~~max~~ year of 1866 or 1867 any time? A Yes sir.
- Q While over there did you ever meet a man by the name of Stephen Lynch? A Yes sir.
- Q What was his wife's name? A Peggie.
- Q When did you meet him? A There at Crap Lynch.
- Q What year? A In '67.
- Q What time of the year? A Long about the first part of the year.
- Q What month? A Along in January.
- Q Now it has been a long while since January, 1867, what causes it you remember that you saw Steve Lynch in that month? A Well I am satisfied that is the first time I ever saw him after the war Christmas '66 I was at Kells and went over in that country.
- Q Went over from Kells? A Yes sir.
- Q How long after Christmas was that? A I guess it must have been along about a week. It was a long after Christmas I don't know exactly what time it was.

- Q Did you visit the home of Steve Lynch at that time? A I wasn't right at his house, right at the place where he was building but I passed right by it.
- Q Was he building a place when you saw him? A Yes sir.
- Q Where is that place located? A Just about two or a mile and a half below the Island Ford.
- Q Do you know who has possession of that place now? A Yes sir.
- Q Who? A His son, Ben Henry.
- Q Did you see Steve Lynch after that time? A Yes sir.
- Q Where? A Over there on the other side of the river there.
- Q Are you acquainted with Bertha Bean the daughter of Kate Bean? A Yes sir.
- Q Who was her mother? A Judie Lynch or Henry, Steve Lynch and Peggies daughter.
- Q When did you first become acquainted with Judie? A Ever since she was a little girl.
- Q When was that? A I can't remember what year it was, I was acquainted with her until she was a little girl until grown.
- Q Was that after the war? A Yes sir, she was born a long time after the war.
- Q Are you acquainted with G. W. Clark of Vinita, Indian Territory? A Yes sir.
- Q How long have you known Mr. Clark? A I got acquainted with Judge Clark after the war. I have been acquainted with him frequently since the war.
- Q Do you know anything about whether he is prejudice or not against the Cherokee freedmen? A I couldn't say whether he is really prejudice or not. I couldn't say positively, he is not as prejudice as some I will tell you of as I believe, I never did really stay right around George Clark to know what his disposition was in regard toward the freedmen.
- Q Do you remember of a case pending before Clark when he was Judge of Delaware District down there in which the Lyon boys and Watt Lynch were defendants? A Yes sir, I saw the boys when arrested.
- Q Do you remember that case? A Yes sir.
- Q Do you know anything that took place? A Not my being there, I wasn't there not any more than what I heard.
- Q Did you hear anything about it? A Yes sir.
- Q When did you hear it?

Mr. Davenport: I object to what he heard as being incompetent, irrelevant and immaterial.

On Behalf of the Commissioner: Objection noted.

- Q When did you hear about it? A In a few days at the Court House.
- Q What did you hear about it? A Well they called it to trial and I suppose some of them claimed they were not going to give them a fair trial and Judge Clark said he wasn't there to make any more citizens.
- Q Are you acquainted with Watt West? A Yes sir.
- Q How long have you known him? A Ever since I was a boy. He very frequently came to our house before the war.
- Q Do you know whether or not he is prejudice against the enrollment of Cherokee freedmen? A If there ever was a man that is prejudice he is one, I am satisfied of that.
- Q He is what? A I say I am satisfied he is prejudice.

- Q What makes you think he is prejudice? A He shows to me that he is a man of prejudice.
- Q What shows to you that he is a man of prejudice? A Well the reason why he shows in every respect since the people have been down there, every thing in the world that he despises them. He showed that much to me, I guess he showed the same thing to the rest of the people.
- Q Are you acquainted with Tom Monroe? A Yes sir, a little.
- Q Do you know whether or not he is prejudice against Cherokee freedmen? A No sir, I don't know, that is I am not positive, not very well acquainted with Tom, acquainted with him in lots of respects, but never lived near him, saw him lots of time.

BY MR. DAVENPORT:

- Q Now you went south didn't you? A Yes sir.
- Q Did you know this Stephen Henry Lynch before the war? A Yes sir.
- Q How near had you lived to him before the war? A We lived right down below him about 10 miles.
- Q You went to Texas with your Mistress did you? A Yes sir.
- Q What was her name? A Susanna McNair.
- Q When you came back who did you come back with? A With a man named Gill drove some cattle through to Fort Smith.
- Q Did you go back to Texas yourself? A No sir.
- Q You didn't come back to the Territory with Mrs. McNair? A No sir, didn't come back with her, I was ahead of her.
- Q Did she ever come back to the Cherokee Nation? A No sir, she died in Texas.
- Q How old were you at that time? A I was about 16 years old.
- Q And you came back and went to the Lewis Kell place? A Yes sir.
- Q Who was living on the Lewis Kell place when you went there? A I didn't come there with Lewis.
- Q Who was living on the place? A Lewis was living on the place.
- Q And Lewis Kell had got back and located on his old place then before you got there? A Yes sir.
- Q Who was living in the community, the Cherokee people? A Johnson Thompson, Bill Landrum, Dave Landrum, and Jesse Cochran.
- Q Old Jesse or young Jesse? A Young Jesse.
- Q Where was the old man? A He had got killed when I got there.
- Q Who was living on the old place there at the Military crossing at Big Cabin? A Lewis Kell lived on the north side.
- Q Who lived on the south side? A Wasn't anybody living there.
- Q What year you say you got back up there? A In the fall of '66.
- Q Did Lewis Kell make a crop on his farm in 1866? A No sir, not until October.
- Q What time did you get there? A Along about the last of November.
- Q What year was the Kern-Clifton roll made? A I couldn't tell you.
- Q You ought to remember that it has been only a few years ago? A Well a fellow ought to remember but I can't remember the date now.
- Q What year did this present Commission begin making the freedman roll? A This Commission.
- Q Yes? A I never paid no attention to it.
- Q What year was the Kern-Clifton roll made? A You asked me that and I told you I didn't remember that.
- Q What year was the Wallace roll made? A In '89 and I tell you here I remember that, I got my license and was married that year.
- Q And you remember distinctly that? A Yes sir.
- Q Have you ever testified in this case before? A No sir.
- Q And you knew these parties were on the doubtful roll? A Yes sir.
- Q Had known it for years hadn't you? A Yes sir.
- Q When did you first find out you were going to be a witness in this case? A Well I will tell you, it was about I guess maybe a month ago.

- Q Who talked with you first? A Why Dan, the old man's son.
- Q Dan Henry is not an applicant in this case? A Yes sir, Steve Henry's son.
- Q I am not speaking about his son, I am asking about the Bertha Bean case? A I am testifying in the Stephen Lynch case.
- Q Who else did you talk to after that about it? A I talked to nobody else about it.
- Q Who summoned you? A Mr. Bulger notified me about the case.
- Q How many times have you talked to J. C. Starr about it? A I had no talk with him about it.
- Q You have been talking to him about freedmen cases? A Yes sir, cause it was interest for me to talk about it.
- Q Have you talked to him since he became one of the Attorneys in this case? A No sir, I have had no talk to him about it.
- Q Not about any freedman case at all? A Well not as I remember.
- Q You served some papers for him? A Yes sir, I know did he asked me to hand the papers to Mr. Bell, I didn't know what they were.
- Q And you never talked to Starr about the case one way or the other? A No sir.
- Q And you have lived there in vinita for years and never testified in the case or told any one that you knew about it until about a month ago? A Yes sir, I told Dan what I knew about it.
- Q When did you tell Dan? A About a month ago. He come to me and asked me if I knew his father and I told him yes.
- Q Now tell me who else you saw in the Cherokee Nation in the fall of 1866? A Well up there where I was there was Ben Jandrum, Dave Jandrum, John Landrum, Johnson Thompson, Tonny Thompson.
- Q Did you see Watt West up there? A No sir.
- Q Don't you know Watt West was living there and has lived there since the close of the war? A No sir, he was nd.
- Q Don't you know he has lived over there from the close of the war up until the present time? A No sir, he was south and couldn't live there.
- Q I am asking you if you don't know that is a fact is it so or not, if he testifies that he lived there ever since the close of the war?
- A Yes sir, he lived there but in the fall of '66 I didn't see him.
- Q You didn't see him because you were not in that neighborhood?
- A No sir.
- Q You didn't come over there until the first of January, 1867? A No sir.
- Q Now when did you get over there first? A I don't know.
- Q How do you remember it was the first of January, 1867? A The reason I could remember it was along in the first part of the year the Cherokees was holding a Kaytooyah meeting in regard to the nomination of the two Chiefs.
- Q Who were they to succeed? A Lewis Downing and William P. Ross.
- Q Now you want to be understood in this record that you didn't come over into that neighborhood until the nomination of Lewis Downing and William P. Ross? A No sir, that was the year, of course, that was explained to me by men supposed to know the difference in the year, we say the year they were nominated, the year '67.
- Q You said they were holding their meeting in January, 1867, and that is why you remember it? A Yes sir, I went over there.
- Q Then the fact that causes you to remember it was in January, 1867, that you went over to the Lynch place and saw Steve Lynch was because the Kaytooyahs held meetings in regard to the nomination of a Chief? A I says I went over there very frequently after that time but after that time I went over there very frequently after that time cause they were holding Kaytooyah meeting after that time.

- Q And it was a long time afterwards wasn't it? A No sir, it wasn't.
- Q Now I want to ask you again and want you to tell me what it was that caused you to remember that the first time you went over on the east side of Grand River and claim to have seen Steve Lynch was the first of January, 1867? A The reason I know cause it was the first part of the year.
- Q Might it not have been the last part of the year? A No sir, it wasn't.
- Q How many days after Christmas was it? A About a week after Christmas I guess.
- Q What makes you know it was just about a week after Christmas? A I just got to suppose that it was a week after Christmas.
- Q Then you are testifying what you suppose and not what you know? A I know it wasn't longer than a week.
- Q Then you never saw him until January, 1867? A Yes sir.
- Q How many of these applicants' cases have you testified in? A Not in a great many.
- Q Been sort of a standing witness haven't you? A No sir, never was.
- Q What year did you move to Vinita? A I can't remember what year it was I come to Vinita.
- Q What year did you get acquainted with Walter West after the war? A Was acquainted with him ever since I was a boy.
- Q What year did you get acquainted with George Clark? A Along about '67.
- Q Do you know any man in that country that has any financial standing at all that doubts the reputation of G. W. Clark for financial reputation or truth? A No sir.
- Q Do you know any one in the community where Tom Monroe lives that doubts the standing of Monroe for financial standing and truthfulness? A No sir.
- Q They are regarded in the community where they live as being upright and reputable men? A No sir, I don't know, I am sure George Clark but not Tom Monroe.
- Q Have you never been in Tom Monroe's community? A No sir, never been up there.
- Q You have never been in the Horse Creek neighborhood? A Been through there never stopped there.
- Q Do you know anybody in the community in which Watt West lives that will question his reputation? A No sir.
- Q You seem to have an interest in this case? A No sir, no interest on earth.
- Q You insist on arguing it instead of answering the question? A No sir.
- Q Do you know of any instance that Walter West ever swore falsely because of his bias in the case? A No sir.
- Q Do you know in any instance in which Thomas J. Monroe on account of his prejudice has ever sworn falsely? A No sir, I don't know anything about it.
- Q Do you know any instance in which G. W. Clark has sworn falsely? A Don't know anything about that.

BY MR. BULGER:

- Q You said awhile ago that Jesse Cochran had been killed before you got up there in that neighborhood, how long prior to that time? A Just what they told me he was killed along in the spring.

Mr. Davenport: I object to his telling what he was told.

On Behalf of the Commissioner: Objection noted.

- Q Do you know about the---had you heard about the Horse Creek fight?
A Yes sir.

- Q Do you know what year the Horse Creek fight took place? A Taken place in the fall of '66. I heard of it before I got up there.
- Q Were you a witness in the Tobias Bean case before this Dawes Commission? A No sir.
- Q Do you remember about that case being brought up? A Yes sir, I remember about it being tried.
- Q Was there something about that case that attracted your attention? A No sir, no more than that I understood that he was shot that drew my attention.
- Q Do you know what George W. Clark testified to in that case? A No sir, I don't.
- Q Do you know what Tom Monree testified to in that case? A No sir.
- Q Do you know what Watt West testified in that case? A No sir.
- Q Do you know what King testified to? A No sir.

BY MR. DAVENPORT:

- Q You were not in that country when that Horse Creek fight took place? A No sir, it was before I got there.

W I T N E S S E X C U S E D .

ALLEN LYNCH, being first duly sworn, testified as follows:

BY MR. BULGER:

- Q What is your name? A Allen Lynch.
- Q What is your post office address? A Ketchum.
- Q How old are you? A I am pretty near 66 years old.
- Q Were you a slave of a Cherokee at the commencement of the rebellion? A Yes sir.
- Q Did you go out of the Cherokee nation during the rebellion? A Yes sir.
- Q Did you return to the Cherokee nation after the rebellion? A Yes sir.
- Q What year did you return? A Well I always claimed that I come here in '66 I guess, about then I know. I come out of the army in October '65 and stayed up at Weeshe Falls about a month and then come down here.
- Q It was either '65 or '66 wasn't it? A Yes sir, right along there.
- Q To what part of the nation did you move at that time? A Moved upon Grand River there close where I live now. I moved first over on the east side of Grand River and then I went over there back on to the west side, I just lived in that neighborhood---
- Q Where were you living during the fall and winter of '66? A At the Dr. Thompson place, that brick house across the river.
- Q With whom did you live there at that place? A I lived with Andy Frye and his family.
- Q Did any one else live there? A Yes sir, there was 7 or 8 different families there.
- Q Who were they? A Tobe Schrimsher, and Jake Martin family and Mose Hardrick, Jeff Lyon, Tom Moore and family and Butler McWair.
- Q When was this? A That was in '66 and spring of '67, they were there, Jeff went there, I don't know exactly the time but that was the crowd that lived there.
- Q Are you acquainted with Crap Lynch? A Yes sir.
- Q Did you see him in the Cherokee Nation in the fall of 1866? A Yes sir.
- Q Were you acquainted with Frank Stephen Lynch during his life time? A Yes sir.

- Q Were you acquainted with him before the war? A Lived right on the same place with him.
- Q Did you belong to the same man? A Yes sir.
- Q Did Stephen Henry Lynch go out of the Nation during the war?
- A Yes sir.
- Q Did he return after the war? A Yes sir.
- Q Do you know when he returned? A He come down here in the fall along in the early part of the winter of '66 and got Crap Lynch or Anderson Lynch, they called him, to go with him back to Kansas and move him down, I was there when they left Kansas, I wasn't there when they come back.
- Q Where did you see Crap? A At an Tucker's.
- Q What was he doing there that caused you to remember him? A Playing a fiddle, had a dance there.
- Q When did you see Steve Lynch the first time? A It was after Christmas but I don't know what time it was.
- Q Christmas what year? A '66 and then it was '67, between that and spring I seen him.
- Q Where did you see him? A Saw him at Crap's, he was living there staying on the same place.
- Q Was his family there then? A Yes sir.
- Q Was this prior to February 11, 1867? A Yes sir, it was then February. I seen him between February and Christmas but I don't know just what time.
- Q Do you know whether or not Stephen Lynch returned to the State of Kansas after this date, January, 1867? A No sir, I will tell you when we all come down here it was a common thing that we went back to Kansas. -----

Mr. Davenport: I object to that and move to strike it out of the record if brought out that way, he knows whether or not the man went back.

On Behalf of the Commissioner: Objection noted.

- A ----- We had to go back up there to work and get something to eat. I don't know when they went out and come back, I don't know a thing about it, I don't suppose any of them know when I was out and back.
- Q Had you gone out yourself? A Yes sir, I went out and went to Ottawa and stayed there two months and worked.
- Q Are you now enrolled as a Cherokee citizen? A Yes sir.
- Q On what rolls are you? A On all of them.
- Q Do you know anything about the school having been conducted on the Dr. Thompson property right shortly after your return to the Cherokee Nation? A Yes sir.
- Q When was that school conducted? A That school commenced in '77, that is 1877.
- Q '77? A Right away after Christmas '66.
- Q Quit stuttering, now give me the date? A School commenced after Christmas.
- Q What year? A 1877 is it, well now I have got it mixed up, '76.
- Q You are trying to say '67? A '67, that is it.
- Q Now this school you saw began when? A In '67.
- Q About what time of the year? A March 3rd or 4th, and was taught by my wife. We got the permission of old Spring Frog, he was the National Treasurer and he done all the issuing. Taught that term and then another.
- Q Did any of Stephen Lynch's children attend that school? A No sir.
- Q And you remember some persons that did attend that school? A There was Aaron Martin's children, Jake Martin children, Lewis Rose's children, Arch Landrum, Rube Downing, Tobe Schrimsher, Moss Wardrick and Jeff Lyons and some Cherokee children, I don't know

- their names.
- Q Were there any other freedmen in the Cherokee Nation when you came down here in the summer of '66? A In the spring of '66 old man Riley McJair.
- Q Did he remain here? A He come down here and raised a crop and then went back to Kansas after his family. He come down here he was out preacher but who come down with him I don't remember, I don't know after that. I know he was here because he was there and preached for us.
- Q Did he return to Kansas for his family after he came? A Yes sir.
- Q When was that? A I don't know just when he got in with his family but he come here and raised his crop and went after them.
- Q Now are you acquainted with Bertha Bean, Jake Bean's daughter?
- A No sir, she is Steve Henry's daughter child.
- Q Yes? A I am not acquainted with her much.
- Q You know of her? A Yes sir.
- Q Are you acquainted with her mother? A Yes sir.
- Q Who is her mother? A I know Steve and Peggie and the children of course, I didn't keep track of them. I knew Steve and Peggie and Jesse and Bill.
- Q Who is Bill? A Bill Vann, lives out on Big Creek.
- Q How long was it after you saw Crap ~~and~~ at this dance Christmas 1866 was it until you saw Steve Lynch? A I seen him after Christmas between Christmas and spring, couldn't tell you exact time.
- Q Did any one else return from Kansas with him at that time? A Not Nothing but old Uncle Bill, his brother.
- Q Uncle Bill who? A Bill Buffington, I didn't see him they told me he come.
- Q Did you ever see him? A Yes sir, afterwards.
- Q What time afterwards? A That summer sometime.

Mr. Davenport: I object to any further fishing around, lets get down and try one case at a time.

On Behalf of the Commissioner: Objection noted.

BY MR. DAVENPORT:

- Q You are the same Allen Lynch that has been testifying in a number of these cases? A Yes sir.
- Q How many have you testified in? A I don't know.
- Q About 50 or 60? A I expect so.
- Q Have you ever testified in this case before? A I just knew about it, I know about Steve Lynch.
- Q Do you know when Steve Lynch, the grand-father of this Bertha Bean returned to the Cherokee Nation? A No sir, I didn't see him until after Christmas.
- Q Can you tell what month it was? A I think it was sometime in January.
- Q Did you make any special note of it? A No sir.
- Q You don't know whether it was January or February? A It was January.
- Q How do you know it was January? A Cause it was right after Christmas.
- Q It has been 40 years how do you know it was January after Christmas? A I say it was after that time.
- Q You say you never testified in this case before? A I say I don't.
- Q Do you know anything now you didn't say then? A Just what I told you then is what I am telling now.
- Q Why did they bring you down here again if you told this before?
- A I told him I would tell the same thing.
- Q Where was it Riley McJair made a crop in 1866? A Down here below Greenbrier.

- Q On whose place? A On the old Susan McNair place.
- Q Who was living on the Susan McNair place the year Riley made the crop there? A I don't know.
- Q You saw his crop? A No sir, I didn't.
- Q You are not undertaking to testify where he made a crop without seeing it? A That is what he told me.
- Q Do you know of your own knowledge that Riley McNair ever made a crop in 1866 anywhere? A No sir, I don't, but he was here and claimed----
- Q I am not asking about what he claimed, do you know of your own knowledge? A I never went down there to see his crop.
- Q Then you don't know whether or not he made a crop? A No sir, I never seen it, I am just taking his word for it.
- Q Are you swearing in this case from what has been told you or from your knowledge? A I am swearing from what I ~~was~~ was told about raising a crop.
- Q Are you swearing from the time he returned to the Cherokee Nation from what you know or what he told you? A I am swearing from what I know, I seen him, heard him preach.
- Q Didn't you tell me awhile ago that you never saw him until January, 1867? A What case are you talking about.
- Q This case you are testifying in. Did you know when you were called as a witness and came in here and began ~~in~~ to give testimony in whose behalf you were testifying? A No, cause they asked me so many.
- Q Were you not subpoenaed to testify in a certain case? A Yes sir, subpoenaed me to come down here and testify in the Stephen Lynch case.
- Q Don't you know that Stephen Lynch has been dead for years? A Yes sir, I know when he died.
- Q How do you swear they asked you to come down here and testify in the Stephen Henry case? A Yes sir.
- Q You knew he was dead and wasn't an applicant for enrollment? A I knew he was dead.
- Q You came then to testify about people that you knew were not in this case? A I didn't know.
- Q Then when you began to testify here you began to testify about parties in this Stephen Henry case? A They asked me and I told them.
- Q Now you say you never saw Stephen Henry, the father of this claimant until sometime after Christmas of 1866? A Yes sir.
- Q And you cannot tell what month excepting you think it was after Christmas? A Yes sir, I know it was after Christmas.
- Q He hadn't made a crop had he? A No sir.
- Q On whose place was he living when you saw him ~~at the old Joe Lynch place~~ ~~stepping there with Crap.~~
- Q ~~phases~~ A On the old Joe Lynch place stepping there with Crap.
- Q The Joe Lynch place you speak of was the Lynch place, who was the father of Lon Lynch? A Yes sir.
- Q Now can you tell me after having your mind refreshed about how many of these cases you have testified in? A Well now I want to understand in what case you mean? I come ~~xxx~~ here today to testify in the Stephen Henry case and he just asked me who was here.
- Q I mean how many Cherokee freedmen cases you have been witness in? A I couldn't tell you, I don't know.
- Q You have been a witness in more than 50? A I may have been.
- Q And you have placed them in your testimony as having seen them all the way from Big Creek to Grand River, Tahlequah and Fort Gibson? A I placed them at Fort Gibson and Tahlequah, I never seen any of them on Big Creek.
- Q You are a brother of Crap Lynch? A No sir, no relation to Crap.

- Q You are the same Allen Lynch that was with Bill Foreman before the Fern-Clifton Commission? A I was there.
Q Are you the fellow that got a mule or a horse to testify there?
A No sir, never got no horse or mule.

BY MR. BULGER:

- Q He asks you if you haven't testified in something like 50 Cherokee freedmen cases, now these 50 Cherokee freedmen cases would one take in about a half dozen freedmen, wouldn't it?
A Yes sir.
Q Now how many cases are there in this case, Stephen Henry, children of Stephen Henry that makes individual cases? A I don't know, I told you I don't know how many. then youngest children there are. I live right by them too. There is Jesse Vann and Bill Vann and Dan Henry and he had some girls, Nettie Eaton and he had one or two more girls, I don't remember anything about them. But these older children, Jesse and Bill were born before the war down here somewhere, way down on the river and one of them got in some law suit or some trouble and had, and old Joe Lynch bought them and this woman and raised them up there.
Q In fact aren't there about 10 of these Stephen Lynch cases growing out of this Stephen Lynch family? A I don't know.
Q Haven't you testified in this Moses Riley case? A Yes sir
Q In fact there is about 26 separate cases growing out of that Moses Riley case? A I don't know.
Q And that is how you testified in so many growing out of these older cases? A I testified in that Moses Riley before this court and before the Fern-Clifton court, and that is as near as I can remember.

W I T N E S S E X C U S E D .

JOSEPHINE HUMISTON, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A My name is Josephine Humiston.
Q Where do you live? A At Farlinville, Lynn County, Kansas.
Q How long have you lived there or near there? A I came to the place I am now living on in 1857.
Q What was your age at the time you came to the place? A I was about 22 I think.
Q What is your age now? A I am 71.
Q Have you been married? A Yes sir, I have been married, I was married when I came there, my husband and I came there when we were quite young.
Q What was your husband's name at that time? A William B. Emerson.
Q Were you living there when the war broke out? A Yes sir.
Q Did you remain there during the war of the rebellion? A Yes sir.
Q And after the war were you living on the same place that you are living on now? A Yes sir.
Q Were you and your husband farming at that time? A Yes sir, we had a farm.
Q At the close of the war did you have any colored people working for you on the farm or shortly after the close of the war? A Yes sir.
Q Do you remember the names of any of them that were there? A Stephen Lynch and his family.
Q Did he have a family? A He had a family, he called his wife Peggie.
Q Do you remember whether or not he had any children? A He had children he had two boys, Jesse and Billy they called them.

- Q Do you know whether or not while he remained there they had other children born to them? A They had other children, two girls, Linnie and Julian, then there was other born one they called Judie and Nettie.
- Q Was Judie born after they came to your place? A Yes sir, a Nettie.
- Q Do you remember about what year they went on to your farm? A They came in the fall of 1863.
- Q How long did they stay on your farm, about when did they leave there? A They stayed there until the fall of 1867.
- Q Did they make crops on the place? A They made five crops on the place.
- Q Did the family continue to reside on the place, that is up there, each year while you were there? A They were there.
- Q How far was the house you lived in to where they lived? A Only a short distance, a little spring branch between our places, I don't know just the distance.
- Q Did you ever know Stephen Lynch to be called anything else but Stephen Lynch while he lived there? A No sir, that was all we always said Uncle Steve.
- Q He was getting up in years? A I would have said about 50.
- Q Now what did you say your husband's name was at that time? A William B. Emerson.
- Q Would you know his hand writing? A Yes sir, I think I would know it from every one else's.
- Q I will ask you to examine the book which I hand you made on Tuesday, August 20, 1867, and see if that is his hand writing? A Yes sir, that is his hand writing.
- Q In whose possession has this book been since the death of your husband? A It has been in my possession all these years.
- Q Did your husband keep at that time a kind of a diary of affairs that took place? A Yes sir.

Mr. Davenport: I desire to offer that part of the book which I refer to under date Tuesday, August 20, 1867: "Come home via John Woffinger's and the dreary Paris. Steve starts to Cherokee Indian country. Hulbert, William, Mungford and David Hill at haying. At P. M. commenced report for J. R. Vanzant."

- Q I wish you would examine the book I hand you under date of Tuesday, October 22, 1867, and state if it is in the hand writing of your deceased husband? A Yes sir.
- Q In whose possession has the book been since his death? A It has been in my possession all these years.

Mr. Davenport: We desire to offer the entry under date of Tuesday, October 22, 1867: "Steve and brother Bill start back to the Cherokee Nation. T. Barwick gets back to work. Steve takes 7 1/2 bushels of corn out of the crib again." The book labeled "Diary 1867" on the outside.

- Q I wish you would examine the book I hand you and state what book that is or whether it is----? A It is my husband's book, his account book.
- Q It was kept by your husband, Mr. Emerson as an account book? A Yes sir.
- Q I will ask you to examine it on page 17 and state whether or not the hand writing there is that of your deceased husband? A Yes sir, it is.
- Q In whose possession has that book been? A It has been in my possession.

- Q Has there been any alteration or changes made in the book? A No sir.
Q Or used by any one else? A No sir.

Mr. Davenport: We desire to offer all that part of the account found on page 17 or what has been identified on the account book of William B. Emerson, who is deceased, the hand writing of whom has been identified by Mrs. Hamiston, the witness:

"17

"Emerson

Stephen Lynch, Dr.

Cr.

A. D. 1867

A. D. 1867.

July

20th	to 3/4 gal.	.75	By labor 5 days	13	6.50
Aug. 5th	To cash	16	July 13, 3 days labor	18	3.00
		22.90	" 20, 4 days labor, help		4.90
			" 23, 4 days hauling corn		1.00
			" 26, 1/2 day of S & J	15	.50
			" 29, 1/2 day of S & J		.75
			Aug. 3, By cellar ditch		
			Labor by peggie	8.00	
		23.65		23.65	

Subscribed

Aug. 15	To cash	17	\$10.00	Aug. 15	By 10 days work	17	\$10.00
Sept. 20	Thrashing	21	1.10	Aug. 18	" 1 day work	18	1.00
Oct. 8	To cash	22	6.50	Sept. 3	By hauling wood	19	.50
" 14	To cash	"	8.50	Sept. 30	6.76 acres corn	21	50.70
" 21	To cash	"	55.10	" 30	To Fodder		19.00
			81.20				81.20

- Q I notice from the entry in the book on page 17 a credit of 6.76 acres of corn, do you know anything about that? A Yes sir, I think that it had reference to the ~~xxx~~ ground that Mr. Lynch cleaned and cleared up and my husband bought the ground.
Q Had Stephen Lynch been renting on shares from your husband or had he leased some of the land? A He leased it and cleared it up. It was in brush and he cleaned it up and my husband bought the crop.
Q I will ask you if you ever made an examination sufficiently to show whether or not the figures opposite the debit and credits in this book in red ink indicated the pages? A Yes sir, I think that is it.
Q Are you in possession of the day book where these original entries were made? A Yes sir.
Q And you have examined it also to see that the entries are similar to the entries here and to see if they are in the hand writing of your husband? A Yes sir, they are in the same hand writing.
Q And your recollection is that Stephen Lynch and his family began working there in what year? A In the spring of 1863.

- Q I will ask you if you have any other books of years back, say of 1866 where the name of Steve appears? A I have a diary of 1866.
- Q Of your husband? A Yes sir, in the same hand writing.
- Q I will ask you to examine the book I hand you under date of January 6, 1866 and state whether or not that entry is in the hand writing of your husband? A Yes sir, it is in his hand writing I recognize that.

Mr. Davenport: I desire to offer under date of January 6, 1866, an entry: "Paid to Sutton for B. Fouts for S. Lynch \$27.00, and Steve 100 pounds fleur, \$7.00, total \$34.00."

diary

- Q I will ask you to examine the ~~handwriting~~ of 1866 and state whether or not the hand writing under date of January 29, 1866 is in the hand writing of your husband? A Yes sir.

Mr. Davenport: Under date of January 29, 1866: "Pay Steve \$5.00 for wood chopping, hauling etc."

- Q In whose possession has this book been since the death of your husband? A It has been in mine.
- Q Has there been any alterations or changes in that diary of 1866? A No sir.
- Q Has there been any alterations made in the day book which shows the entries of accounts and which entries have been transferred to your husband's account book? A No sir.
- Q Have you been in possession of these books ever since that time? A All these years.
- Q These books have been examined by you with other parties have they not? A Yes sir.
- Q Mr. Keys and myself and you have gone over the books? A Yes sir.
- Q Has any one else representing the applicant or representing any one gone over the books with you in the last few weeks? A Mr. Starr was there.
- Q Mr. J. C. Starr? A I don't know, the Mr. Starr I met when here before.
- Q How long ago? A Only just a few weeks ago, just a few days ago.
- Q You gave him permission to examine it? A Yes sir.
- Q Was Mr. Bulger with Mr. Starr at that time? A There was no person from this place, a man with him from Pleasanton.
- Q Did you learn what the man's name was? A I forget his name.
- Q Do you remember whether it was Mr. Paramore? A No sir, I don't think that was the name. He remembered being in our county and remembered being in my house once.
- Q Mr. Starr was there? A I recognized Mr. Starr and he told me he recognized me at Muskogee.
- Q You gave him the privilege of examining the books? A Yes sir.
- Q You never had these three small books examined here before? A No sir.
- Q And you now state no alterations or changes have been made? A There has been no alterations or changes made.

BY MR. BULGER;

- Q These accounts so far seem to show that Stephen Lynch was at your husband's place from the 6th and the 29th of January, 1866, and from the 6th of July to the 30th of September, 1867. Then from January 29, 1866, to July 6, 1867, there is no account with reference to your husband in so far presented with Stephen Lynch, no account of your husband from January 29, 1866 to July 6, 1867, is a blank so far as these records are concerned? A Yes sir.
- Q Do you know of your own knowledge where Stephen Lynch was during all that time? A The greater part of the time he was on the place.

- Q How close did they live to your place? A Just a few rods.
- Q Did your husband and Steve have business relations all the time during his stay there? A Yes sir, all the time, my husband was a surveyor and was away from home and Mr. Lynch worked on the place and leased a little land and cleared that up, and when he wasn't working on his own lease he was working for my husband for pay.
- Q Was it a habit of your husband to keep a diary? A Yes sir, he had been doing so.
- Q Do you know a man named Thomas Barbick? A Yes sir.
- Q Did he work for your husband? A Yessir.
- Q When? A In 1867.
- Q Did he work in 1866? A Not that I remember of, I don't think he did.
- Q Where did Thomas Barbick come from to your place? A St. Louis.
- Q Do you know what he had been doing prior to the coming to your home? A He was working in St. Louis, I don't know how long he had been in St. Louis, he had formerly lived there.
- Q Was he a married man? A Yes sir.
- Q Did his wife live with him at your place? A She lived there with him ~~from~~ part of the time but not all of the time.
- Q Did Mr. Barbick and his wife separate while at your place? A He left our place supposedly going to his wife and he didn't go to her and it was a long time then before she knew where he was. Nobody else knew where he was for a long while.
- Q And he deserted her then from your place? A Yes sir.
- Q When was this? A Just a few days after his name appears in those books.
- Q This was the year 1867 or 1866? A 1867.
- Q Now if Mr. Barbick says that he separated from his wife in 1866?
- A He can say if he so if he wish but it wont agree with my understanding or remembrance.
- Q Do you know anything about Mr. Barbick having sold or loaned something to this Steve Lynch? A I don't think of it.
- Q Do you know anything about Mr. Barbick corresponding with your husband after he had gone away? A If he did it I have no knowledge of it.
- Q Do you know anything about Stephen Lynch going from your place horse back in the fall of 1866 about October? A No sir, I don't know anything about it.
- Q Do you know anything about a colored man coming from the Cherokee Nation to your home in the fall of 1866? A He didn't come to my house he probably came to Lynch's.
- Q Do you remember about the time Lynch went away from there? A Yes sir.
- Q What year was that? A 1867.
- Q How do you remember it was 1867? A Well because he was there from 1863 until 1867, he made 5 crops on the place.
- Q Crop in '63, '64, '65, '66 and '67? A Yes sir.
- Q Now do you remember about their going away, leaving your place in the fall of 1867 that you mentioned? A Yes sir.
- Q How did they go away? A With wagons.
- Q How many wagons? A My remembrance they had two but I can't state anything about that, but he had wagons, I don't know a thing about it.
- Q Had he been making preparation for sometime to come to the Territory? A I presume he had.
- Q Had he been waiting for some one to bring him here? A I don't know about that.
- Q Had he employed a white man? A I don't know anything about that.
- Q Did he come to the Cherokee nation in the fall of 1866 by himself?
- A I don't know if he did.

- Q Did you ever hear of it? A No sir, I have no knowledge of it.
- Q Do you remember anything more than that about Stephen Lynch, any more than what this record shows? A Yes sir, I remember seeing him over there, chopping wood at my door and was working for me.
- Q Was he over there every day? A I wont swear every day, he might have been working for a neighbor.
- Q He might have been gone a week at a time? A I don't know that.
- Q He might have been gone a month at a time? A He wasn't gone a month without my knowing it.
- Q Was there any other Steves your husband kept accounts with? A I don't remember of any, if there was I don't know anything about it.
- Q Do you remember when other colored men worked for your people?
- A Yes sir, William Buffington.
- Q Was he a brother of Steve Lynch? A Yes sir.
- Q Would you have remembered in regard to these matters if it hadn't have been with these records? A Would have with regard to Steve Lynch, would not have remembered Buffington so well because I saw so little of him? I remember seeing him about the time that Steve came to our place, he lived on a neighbor west of us. Then he was lost to me for a number of years, I don't know just how long then he lived south of me there, I can't remember the exact date but I remember seeing them together. I remember seeing him occasionally at his brothers. I can't tell you how I remember all these things, I remember seeing this family of Lynch's in the fall of 1862 and they didn't move on to our place until the spring of 1863. In the spring of '1863 they moved there and I remember them all the while. Nearly every day some member of their family passed by our house.
- Q Are you in a habit of remembering those things distinctly? A I would think so, they were the first darkies I ever had any knowledge of except when I was a child I met one and I kept on my side of the road and he kept on his, I was afraid of him.
- Q But you do remember that Steve didn't come down to the Cherokee Nation in the fall of 1866? A I wont say he didn't, if he came I have no remembrance of it.
- Q But you say you don't know whether he didn't? A I say I would not say whether he did or not but I will say so far as my knowledge goes that he did not.
- Q It has been testified here by a dozen or 15 persons that a certain man named Crap Lynch went from the Cherokee Nation to the State of Kansas and assisted Steve to move back in the fall of 1866, got here about Christmas, then it is in the testimony that he may have gone back and worked for something to live on as all these darkies used to do, as they were in very hard circumstances down here, do you know whether or not that is true? A His family never left our place.
- Q And these 10 or 15 persons are perjured are they? A I am not going to pass on what they do, I only know what I know.
- Q Did you see this book written? A Yes sir, I can't say that I saw every article written.
- Q You know they haven't been changed since they were written? A Yes sir.
- Q And you know they were written right in the first place? A Yes sir.

Mr. Javenport: I want to call attention to the diary of 1866 and offer the entries under the respective dates which I will give: Under June 29, 1866, "Stacked Steve's wheat. A shower about one o'clock, it was in the night." Under date of August 19, 1866, "Frost this morn. slight says Steve. Stack hay today."

Under date of September 3, 1866, "Stack day, Steve helps." Under date of September 16, 1866, "Commence grinding Steve's sugar cane in P. M." September 24, 1866, "Continue making molasses for Steve." September 16, 1866, "Finish Steve's molasses, 45 gallons in all. Got 1/4 for use of mill, strip cane in P. M." Under date of September 20, 1866, "Raining A.M., P.M. commence grinding sorghum cane in P. M. boys and Steve." Under date of September 27, 1866, "Steve all day, boys 1/2 day." Under date of September 24, 1866, "Go to District Court, Steve and boys, Frear, and Hulbert and Maginton work at molasses." Under date of September 29, 1866, "At District Court, discharged from duty of G.J. Give Frear 5 gallons molasses for labor, 250 gallons made and raised on the place, 45 Steve's, 100 mChas. s." Under date of October 8, 1866, "Paid Steve for work, \$5.00." I desire to offer all these entries Mr. Emerson made in his diary in 1866."

ON BEHALF OF THE COMMISSIONER:

- Q These books and diary entries, entries of which have been entered in the record were they made during the years 1866 and 1867?
A Yes sir
- Q The entries made in the books were they made on the dates appearing opposite the entries? A Yes sir.
- Q Were they all made in your husband's hand writing? A Yes sir.
- Q You say Steve Lynch's wife was named Peggie? A Yes sir.
- Q Did they have any children? A Yes sir.
- Q Do you know their names? A Yes sir, I know the children they brought there with them, Jesse, Bill, Vin and Julian, and born on the place, Nettie and Judie, and one called Sarah, she died died when about two months old.
- Q Was Judie born on the place? A Yes sir.
- Q Did Judie leave for the Cherokee Nation when Steve and Peggie did? A Yes sir, came with her parents at the same time.
- Q Did Stephen Lynch make a crop on her husband's place in 1863?
A Yes sir.
- Q And 1864? A Yes sir,
- Q And 1865? A Yes sir
- Q And 1866? A Yes sir.
- Q And 1867? A Yes sir.
- Q Now did you ever miss him from your place for any period more than a few days say a week at any time during the years 1863 to 1867?
A No sir, I didn't.
- Q Are you positive that he and his family live on your place in 1866 during the whole of the year? A Yes sir, they lived there the whole of the year 1866, his family was there all the time.
- Q And did he live there until 1867? A Yes sir.
- Q That was the fall I believe he went away? A Yes sir.
- Q And do you refresh your memory by your husband's diary? A My memory serves me for that distinctly, I remember that.

BY MR. BULGER:

- Q Do you remember what year the Boston fire was? A I don't know.
- Q Do you remember what year the Chicago fire was? A I don't know.
- Q How old are you? A I am 71, I was born in the year 1834.
- Q Do you remember when the Mexican war began? A I have some remembrance of that.
- Q Do you know the date? A No sir, I never studied history to fix it in my mind. I remember it I was just a young woman, I remember of them calling for volunteers at the time.

- Q Do you remember the name of some battle that took place in the Mexican war? A No sir, I never studied history.
- Q Do you remember who run for President in the election when Buchanan was elected? A I am not certain that I do.
- Q Do you remember who run for President against Lincoln the first time he ran? A No sir, I don't think I do.
- Q Do you remember when the Civil war began? A In 1861.
- Q What day? A It was in April, I can't state the exact date.
- Q Do you remember when Lincoln was killed? A I remember the time but I can't give the date.
- Q You don't remember the year? A No sir.
- Q In fact your memory in regard to this is rather poor? A I can remember the birth of my children and all these things. My only son was born in the fall I first saw Peggie, now do you suppose I could remember a date from that.
- Q Do you remember the date? A I remember the date of my son's birth, it was in September.
- Q What date was that? A In 1862, and I saw Peggie that year, she worked for me after my son was born and I remember then when they came to our place the next year, and then the birth of my daughter Mary followed and Steve's daughter, Ettie followed in three weeks, my daughter was born in 1864, and this child of his was born in 1865, my daughter was born the last of the year.
- Q Was anybody born in 1866 that you know of? A I can't place the date, none of my children.
- Q Was anybody born in the fall of 1867 that makes you remember that so distinctly? A I remember the whooping cough that that child had at that time.

W I T N E S S E X C U S E D .

LYSENA CARLISLE, being first duly sworn, testified as follows on behalf of the Cherokee nation:

BY MR. DAVENPORT:

- Q What is your name? A Lysena Carlisle.
- Q What is your post office? A Earlinville, Kansas.
- Q How long have you lived in or near there? A I have lived there ever since the year 1857.
- Q What is your age now? A 53.
- Q Do you know where Mrs. Humiston's farm is? A Yes sir.
- Q How long have you known where that farm was? A Ever since I can remember.
- Q Were you around there just after the close of the war or the first two years after the close? A Yes sir, I was over there every once in a while.
- Q Did you ever know any colored people that lived on the farm there? A Yes sir.
- Q Did you learn their names? A Yes sir.
- Q What was their names? A Steve Lynch.
- Q Did you know his family? A Yes sir.
- Q Did you know what his wife's name was? A Peggie.
- Q Do you remember any of the children's name? A I remember the three oldest ones.
- Q What were their names? A Jesse, Bill and Vina.
- Q You don't remember any of the others? A I don't remember their names.
- Q Do you remember any year special that they were living on this farm of Mrs. Humiston's? A Yes sir.

- Q What year was that? A I remember they were living there the latter part of 1863 and were living there in 1864 and I know and then I seen them up there off and on until the year 1867.
- Q Did you see them in 1867 up there? A Yes sir.
- Q What part of the year? A It was in February.
- Q Did you see Peggie or any of the family there then? A Yes sir.
- Q Do you know when they moved up there on the farm? A No sir, I don't know when they moved there.
- Q How far did you live at that time from Humiston's farm? A About a mile.
- Q How long had you lived that near them? A Ever since I had gone there.

BY MR. BULGER:

- Q Were you born in 1857? A No sir.
- Q When were you born? A In 1852.
- Q Then you were about 14 years old in 1867? A Yes sir.
- Q And you claim to remember distinctly that you saw Steve Lynch's family at this place in February, 1867? A Yes sir.
- Q How far was it from your house to his? A Well it wasn't quite a mile there where Steve Lynch lived to where we lived.
- Q Were you out there frequently? A Yes sir, passed by there several times.
- Q Were you sufficiently acquainted with them in the fall of 1866 to keep track of their location? A Well they were there but I don't know.
- Q Don't know it? A No sir, I don't.
- Q Is it probably that Steve Lynch could have come to the Cherokee Nation in the fall of 1866 say in October and then have returned to his home up there and you not know it? A I hardly think so.
- Q You were keeping very close tab on Mr. Lynch were you? A I don't know as I was in particular, I would visit with Mrs. Emerson children and would have to pass their cabin nearly whenever I went to visit with her daughters.
- Q The passing of their cabin going to visit Mrs. Emerson's children impressed it upon your mind that they might have been there?
- A They were there because I saw them.
- Q Did you see them there in the fall, October, did you see them there in November, 1866? A I couldn't say whether I did or not.
- Q Did you see them there in December, 1866? A I couldn't say.
- Q Did you see them there in January, 1867? A I don't remember whether I did or not.
- Q Did you see them there in February? A Yes sir, they were there then.
- Q What makes you remember it? A Well Peggie worked for my step-mother in February and the reason I know it so distinctly was because there was a child born and she worked for her afterwards, and I know the date of the birth.
- Q Do you remember them up there in July and August that year do you, in 1867? A They were there during the summer but I couldn't say exactly when.
- Q You saw them there sometime during the summer? A Yes sir, cause she was at our house frequently during the summer, Peggie was.
- Q Do you remember this Bill Buffington? A I remember him a little or him.
- Q Do you remember him being around there all the time continuously?
- A I don't remember him being there all the time.
- Q When you saw Peggie so frequently did you see Steve at those times? A Yes sir, I would see Steve.

Q He was always with Peggie? A Not always.
Q Was he ever to your step mother? A No sir.
Q Then during the month of December, November and January you don't know anything about them? A I couldn't say positively.

WITNESSES EXCUSED.

This case was here continued by agreement until January 4, 1906, at nine o'clock A. M.

-----00-----

Geo. H. Lesaley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lesaley

Subscribed and sworn to before me this 5th day of January, 1906.

(Seal)

B. P. Rasmus

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

FILED

JAN 6 1906

COMMISSIONER

Cherokee Freedman D 392.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
HUMPHREY, I. T., JANUARY 4, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of JACOB BEAN ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, J. J. Bulger.

For Cherokee nation, James S. Davenport.

ON BEHALF OF THE COMMISSIONER:

The records of this office show that the hearing in this case was continued from December 21, 1905, to January 4, 1906. The applicant appears by her Attorney, J. J. Bulger, and the Cherokee Nation by its representative, James S. Davenport, who announce that they have no further testimony to introduce on this day, the case will be closed and a decision rendered on the evidence heretofore introduced.

-----00-----

Geo. H. Lesley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled case, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lesley

Subscribed and sworn to before me this 6th day of January, 1906.

(Seal)

B. P. Rasmus

Notary Public.

Cherokee Freedmen R 302 et al.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JANUARY 10, 1907.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of JAMES VANN, ET AL., as Cherokee Freedmen.

APPEARANCES:

For Applicants, Starr & PATTEN.
For Cherokee Nation, W.W. HASTINGS.

On April 14, 1906, the Department remanded this
case for a rehearing. The applicants and the Attorney
for the Cherokee Nation were duly notified thereof, and
this case set for trial on this day, at which time the
following proceedings were had:

J. D. McRAE, being first duly sworn by B.P. Rasmus, a Notary
Public, testified as follows on behalf of applicants:

BY MR. PATTEN:

- Q State your name? A J. D. McRae.
Q How old are you? A 41.
Q What is your postoffice? A Goodrich, Kansas.
Q Is that in Lynn County? A Yes sir.
Q How long have you lived in Lynn County? A 41 years I think, will
be 42 soon.
Q What year did you go to Lynn County in? A 1865.
Q In the year of 1866 where were you living? A In Lynn County
near the town of Parlinville.
Q At that time were you acquainted with a man named Emerson? A
Yes sir.
Q How far did you live from Mr. Emerson's place? A West a half
mile.
Q While you were living near to Mr. Emerson's place did you ever
become acquainted with a colored man named Stephen Lynch?
Yes sir.
Q Did he have a family there? A Yes sir.
Q Was he living on Mr. Emerson's place in 1866? A Yes sir.
Q How about how far did you live from where Stephen Lynch lived?
A About a half mile.

- Q And did he have any boys, or do you know? A Had two boys, Jesse and William.
- Q After you became acquainted with Stephen Lynch there living on the Emerson place in 1866, while you were living in that community, when, or about when, if you remember, did he leave that place; when did he leave, about when? A Sometime in the fall of 1866.
- Q How did you know, or from hearing him talk ever learn from where he had come before he came to Kansas? A I always understood that he was a Cherokee colored man.
- Q You say he left there sometime in the fall of 1866? A 1866.
- Q How did he ever come back up there in Kansas after he left in the fall of 1866? A Yes sir, I saw him there in 1867 sometime, early in the season but don't remember the date.
- Q Did you see him and talked to him during 1867? A Yes sir.
- Q Did he tell you anything about where he had been during that interval of time? A I don't remember.
- Q Don't remember that? A No sir.
- Q Was he up there sometime during the summer of 1867; back up there? A He was sometime during 1867.
- Q Did he work around there for Mr. Emerson, or in that same community that he had been before he left? A I don't remember him working in 1867; I wasn't living,---I had moved in 1867 away from the Emerson place a little farther west.
- Q Well how far did you live then in 1867 from the Emerson place? A Three miles.
- Q How how long, if you remember, or about when did he leave there in 1867, if he left, about when? A I can't fix the date, but he left with his family sometime during that summer or it might have been the fall, but I think it was in the summer time.
- Q Did you ever hear as to where he went when he left these times? A Oh he was going right to his claim in the Cherokee Nation. That was always understood when he left the last time.
- Q How long did you continue to live in that immediate neighborhood after that Mr. McBride? A For 25 years excepting one year.
- Q Have you ever known or seen him up there since then? A No sir.

BY MR. HASTINGS:

- Q Where did you come from to Lynch County, Kansas? A From Indiana.
- Q Were you married when you came there? A Yes sir.
- Q Did you buy property or were you living on other property? A I hadn't bought property yet at that time, I worked Mr. Emerson's farm part of it the same season, that is in 1866, and Lynch worked a part of the farm; my recollection is that he had a lease on a part of the Emerson farm.
- Q Well I didn't ask you about that; now when did you go to the Emerson farm? A In April, 1866.
- Q How far from there did you live before going to the Emerson farm? A It was about three miles.

- Q What direction? A West.
- Q When did you first get acquainted with Mr. Emerson? A In 1865.
- Q Did you have any business transactions with him prior to April, 1866? A No sir.
- Q Then you moved upon his farm in April 1866? A I didn't live on his farm, I lived on the adjoining farm but worked his farm.
- Q Then you moved upon the adjoining farm in April 1866? A Yes Sir.
- Q And you cultivated a part of his farm for the year 1866? A Yes sir.
- Q What time of the year of 1866 did you move away from there? A I didn't move away until 1867.
- Q What time in 1867 did you move? A I think it was February.
- Q That was in the month of February, 1867? A Yes sir.
- Q How far did you move from there when you moved away at that time? A I think it was about three miles.
- Q And upon whose farm? A I had bought a farm and moved to it.
- Q Did you do any work for Mr. Emerson after that time, during that year? A During the year 1867?
- Q Yes, and after moving off of the place? A I have no recollection of doing any work in 1867.
- Q Now you stated that you knew a colored man by the name of Stephen Henry Lynch? A Yes sir.
- Q And that you knew his wife Peggie? A Yes sir.
- Q They had some children, did they? A Two boys that I remember. Jesse the elder one and William.
- Q And did they have any other children, or step-children? A I don't know.
- Q Where did they live then with reference to where Emerson lived? A They were living on the Emerson farm, and the two houses were close together.
- Q About what distance were they apart? A About a block I should say, or may be a little more.
- Q That was out in the country however, and one was in plain view of the other? A There was some brush in between.
- Q A block you say, less than 200 yards apart? A About 300 yards.
- Q Well do you remember Stephen Henry Lynch's wife, Peggie? A I have just a faint recollection of her; you mean her looks.
- Q I say, do you remember her? A Yes sir, I remember her.
- Q You have just a faint recollection of her looks? A Yes sir.
- Q Have you any distinct recollection of these boys? A Yes sir, Jesse was large and appeared to have a good deal more of the negro than William; William was much brighter than Jesse.
- Q About what time did Stephen Henry Lynch leave there as you stated; I mean what time of the year? A In the fall of 1866.
- Q That is not the proposition, I am asking you to give the year but what time in that fall? A The exact time I couldn't tell.
- Q Well is it your judgment he left there in September? A It was either September or October.

- Q Well you never saw him then any more until after you left the adjoining place? A No sir.
- Q You never saw him after you left there in September or October, 1866, until after you left the adjoining place in February, 1867? A Yes sir, it was after February, 1867, before I saw him again.
- Q I mean when you left the adjoining place as I have understood you, you have testified that you lived upon the adjoining place and cultivated the Emerson place, that is the way of it, is it? A Yes sir.
- Q Now from say September or October, 1866, how far were you living from the Emerson place, were you living on the adjoining farm there as you stated? A I was living on the adjoining farm until sometime in February, 1867.
- Q Well you didn't have any occasion to work out, for Mr. Emerson did you, that winter? A No sir.
- Q And it has been a long time ago and you are willing now to swear that between those dates Stephen Henry Lynch and his family were not living there on that farm of Mr. Emerson's? A I couldn't swear as to that only that I didn't see them.
- Q Your attention was not directed to them? A No sir.
- Q Well now Mr. McRae, you haven't testified as to yet about that family; in the fall of 1866 didn't they so far as your knowledge and information remain there continuously during that fall and winter in that cabin upon the Emerson place? A I couldn't say as to that; they might have been there.
- Q Well you are not disputing that? A No sir.
- Q You are not testifying as to the family at all? A No sir.
- Q Then as I understand you, you don't know as to that? A No sir.
- Q Now then as I understand you Mr. McRae you were there in December, during the month of December on this adjoining farm, in 1866? A Yes sir.
- Q And you want your testimony to be to this effect only, namely, that you didn't see Stephen Henry Lynch but you are not willing to testify positively that he wasn't there? A I don't see how I could positively; he left there, there is no question about that.
- Q Well how had he left, lets go into that? A I don't know about that, only that he was missing from there.
- Q You mean to say that for a time you didn't see him? A Yes sir, that is it.
- Q You didn't see him leave the place, did you? A No sir.
- Q You didn't see his family when they left, nor did you see his family leave at all did you, you haven't testified as to that? A No sir.
- Q Well now tell us what your memory of 40 years ago is about Stephen Henry Lynch leaving; you haven't any independent distinct recollection about him leaving except that your recollection now is that he was gone awhile? A That is about it.
- Q That is about what you want to testify? A Yes sir.
- Q And you don't know whether he left by himself or not? A I don't.

- Q Well you don't remember then whether you were over there to where this cabin was during the months of December, 1866, and January, 1867? A No sir, I don't.
- Q Then so far as you knew this family might have been living there during the months of December, 1866 and January, 1867, and up until February, 1867, when you left there? A As far as I positively remember.
- Q Then you never worked any for Mr. Emerson after February of 1867 during that year of 1867? A I have no recollection of it.
- Q Now you are only testifying of your independent recollection, haven't any data of what transpired 40 years ago, aren't you? A Yes sir.
- Q Well did you have occasion to be over there to the Emerson place after you left there in February, 1867? A I don't remember any special occasion.
- Q Well do you remember being back upon the Emerson farm during the year of 1867, after leaving there in February, 1867? A I have no distinct recollection.
- Q Then if you were ever back upon the Emerson farm after February 1867, you have no recollection of it now? A No distinct recollection.
- Q Well then as I understand you, you have got no distinct recollection of ever having seen Stephen Henry Riley after sometime in the fall of 1866 because you left there in February, 1867, and up to that time you stated you never saw him and you have got no distinct recollection of having gone back to the Emerson place after you left there; now then have you got any distinct recollection of ever seeing Stephen Henry Lynch after you missed him in the fall of 1866? A Yes sir.
- Q When did you see him? A The time, it was in 1867.
- Q Now I mean the first time that you ever did see him in the year 1867 and after you left the Emerson farm? A I can't recollect where I met him in 1867 but I met him and traded horses with him.
- Q Well is that the ~~time~~ first time that you have got any distinct recollection of having seen him in 1867? A Yes sir.
- Q That is your first recollection of it? A Yes sir.
- Q When was that? A I couldn't,---I have no recollection as to the time.
- Q Well is that the first and only time that you remember of seeing Stephen Henry Lynch in the year 1867? A A short time after that he came back with his horse that I traded him and wanted to rule back as he was on his way to the Nation and the horse that I let him have didn't work well.
- Q Well do you know when that was? A No sir, I don't; I can't recollect the exact time only it was in 1867, somewhere in 1867.
- Q Well do you know whether it was in the spring, summer, fall or winter? A It was either in the last of summer or fall.
- Q Well was those the only two times that you ever remember of seeing him? A These are the only two times, yes sir, in 1867.
- Q And those are the only two times that you remember of seeing him since the fall of 1866? A Yes sir.

- Q Well Mr. McRae, you are not now attempting to swear that you didn't see him frequently in between times, are you? A Between--
- Q Between the fall of 1866 and the time you traded horses? A I have no recollection of seeing him in 1867 except on these two occasions, when we traded horses.
- Q But still you would not be willing to swear that you didn't see him, would you? A I think so.
- Q Well now I want to know whether you are going to be positive about it? A I am, my recollection is that I didn't see him only on these two occasions.
- Q Do you remember how long it was between the time you traded the horse and the time he wanted to rule back with you? A No sir.
- Q You know Mrs. Humiston? A Yes sir.
- Q She was formerly Mrs. Emerson? A Yes sir.
- Q And this is the same Emerson family about whom you have been testifying? A Yes sir.
- Q Then as I understand you, you have testified the only two times that you saw Stephen Henry Lynch in 1867 was when you traded horses with him, and then when he come to rule back?
- Q A That is the only distinct recollection I have of seeing him.
- Q You don't know how long he had been there when you traded horses with him? A No sir.
- Q What was the condition of your health in the fall and winter of 1866? A In the fall of 1866 I was sick, in September and first of October, and was reasonably well from that time on.
- Q I believe you have already testified that you didn't see Stephen Henry Lynch, and you don't know whether his family remained there or not during that winter? A No sir.
- Q You are not testifying that his family lived there? A No sir.
- Q Then you are testifying that his family came back in the spring of 1867; you never did see his family there? A I have no recollection of seeing the family except the boys, in 1867.
- Q Where did you see the boys and when? A I saw them at our place in 1867 one time they came there.
- Q About when? A I have no distinct recollection of what time.
- Q Was it after or before you moved? A It was after I had moved.
- Q Are you prepared to dispute under oath that Stephen Henry Lynch worked for Mr. Emerson fourteen and one half days in the month of January, 1867? A No sir.
- Q Are you prepared to swear that Jesse Vann did not work for him two days during that month of 1867? A I don't know anything about that.
- Q Are you prepared to state and swear under oath that Stephen Henry Lynch was not upon the Emerson farm on the 9th day of December, 1866? A No sir.
- Q You went swear that? A No sir.
- Q Are you prepared to swear that the family of Stephen Henry Lynch ever left up there prior to the time that he traded horses with you? A No sir.
- Q Then if that is stated in your affidavit that is filled here, namely, that the family left there in the fall of 1866, you didn't intend to state that? A How was it stated?

- Q "In the fall of 1866 they left here (they referring both to Peggie and the boys, Jesse and William, who you have mentioned) and I understand at that time and heard that he went to the Cherokee Nation to get his citizenship rights and to get him a place." Now did you mean to include all of them or just the old man? A Just the old man.
- Q Now did you intend to say in that affidavit that they were gone several months referring to the entire family or was your affidavit intended from first and last to refer exclusively to the old man? A Exclusively to the old man, excepting when they left,---
- Q Finally after trading horses? A Yes sir.
- Q Well until after you traded horses with reference to their leaving up there, now you intended to testify exclusively with reference to the old man? A Yes sir.
- Q Your testimony now is to the effect simply that you didn't see him for sometime from the fall of 1866 until you traded horses with him? A Until the spring of 1867, yes sir.
- Q You just awhile ago testified that you never saw him in the spring of 1867 at all, until you traded horses with him? A That was the time, yes sir.
- Q You traded horses in the spring of 1867? A That was my recollection, it was sometime in 1867.
- Q Well is it your recollection it was the spring of 1867? A That is my recollection, yes sir.
- Q And you say a few days after thereafter he came back to get you to rule back with him? A I have no distinct recollection of how long it was, afterwards sometime.
- Q Well your just judgment now, you have some idea about how long that you kept his horse, a week or ten days, longer or shorter? A Probably ten days, a short time.
- Q And do you think that was in the spring of 1867? A Sometime in 1867.
- Q Now you used the word awhile ago, the spring of 1867, when you traded horses with him? A That is my recollection, it was in the spring or early summer.
- Q And it is your recollection that he kept the horse about a week or ten days? A Well it might be longer.
- Q But that is your best judgment? A Yes sir.
- Q And you have also testified that he had started to go to the Cherokee Nation and had come back when he ruled back with you? A Yes sir.
- Q Then you haven't any distinct recollection of when he did start to the Cherokee Nation, have you? A No sir.
- Q You have got no record testimony in your pocket that aids your memory? A No sir.
- Q And you are just now testifying from your own independent recollection? A From memory.
- Q And you wouldn't testify now that this man Stephen Henry Lynch wasn't up there on March 6, 1867, would you? A No sir.
- Q You would not testify he wasn't there on March 24, 1867, would you? A No sir.

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- Q You would not testify he didn't make a crop there in the year 1867, would you? A No sir.
- Q You would not be willing now to testify that he didn't stay there as late as October, 1867, would you? A No sir.

BY MR. PATTEN:

- Q Did you live on that same place that you say was about a half mile from the Emerson place; did you live on that same place from the fall of 1866 until February, 1867? A Yes sir.
- Q That was about a half mile away from it? A Yes sir.
- Q Well I will ask you this question from along in the fall, say October or November, about that time, from then until February, 1867, during that interval of time, did you live on that place near the Emerson place, have you, of your own independent recollection any recollection of seeing Stephen Henry Lynch's family during that interval of time? A The children, that is the boys, I have, I remember distinctly seeing some of them in the fall of 1866, and then again after I had moved I saw them once; that was in the spring or summer of 1867.
- Q You say Emerson's house and the house that Stephen Lynch and his family lived in was right close together? A About 300 yards apart.
- Q At the time you traded horses with him and he came back to rule back, had he started to leave there again, or had he started to leave and then come back and traded back with you? A He started to leave and came back to rule back sometime after I traded.
- Q The horse that you traded to him, did he start to drive that off was that the horse that wouldn't work? A Yes sir.
- Q Was that the reason he wanted to trade back? A Yes sir.

BY MR. HASTINGS:

- Q Well that was the first occasion that he had to drive him when he found he would not work? A I am not sure as to that.
- Q That was when he first found it out? A It perhaps was.
- Q You say you lived about a half mile off? A Up until February, yes sir.
- Q When did you buy this place three miles from there? A Month of January, I think.
- Q Of 1867? A Of 1867.
- Q You were then preparing to move over on this new place? A Yes sir.
- Q Did you have any building to do over there? A No sir.
- Q But you simply meant to say that you had no occasion to watch these colored people and you don't know whether they were living there or not? A No sir.

BY MR. PATTEN:

- Q What is your occupation Mr. McRae? A At that time I was a farmer.
- Q Merchant now? A Merchant now, yes sir.

BY MR. HASTINGS:

- Q If a Diary kept by Mr. Emerson shows that Stephen Henry Lynch worked for him fourteen and one half days during the month of January, 1867, are you prepared to dispute it? A No sir.
- Q And four days in December, 1866, are you prepared to dispute it? A No sir.

(Witness excused).

THOMAS BARWICK, being first duly sworn by B.P. Ramsus, a Notary Public, testified as follows on behalf of applicants:

BY MR. PATTEN:

- Q What is your name? A Thomas Barwick.
- Q How old are you? A 62 years of age, will be 63 the 13th day of next May.
- Q What is your postoffice? A Pleasanton, Kansas, Lynn County.
- Q How long have you been a resident of Lynn County? A Well I count it from 1863.
- Q Were you living in Lynn County in 1863? A Yes sir.
- Q Where were you living at that time? A I was living at Mound City.
- Q Where were you living in 1866? A I was living on a farm a mile east of Mound City.
- Q In 1866 were you acquainted with a man by the name of Emerson? A Yes sir.
- Q Where was he living at that time? A About nine miles south of Mound City on a farm, homestead.
- Q About that time did you ever work occasionally for Mr. Emerson, or any thing like that, that would occasion you to become well acquainted with him? A Well I had a notion I wanted to become a Civil Engineer and Mr. Emerson was County Surveyor and I worked for him some; and sometimes I got pay for it and sometimes I didn't.
- Q While around Mr. Emerson did you ever become acquainted with a colored man named Stephen Lynch? A Yes sir, I did.
- Q Did he have a family? A Yes sir.
- Q Did he have any boys? A Yes sir, I think he had some boys.
- Q Did you ever know their names at that time? A No sir, I didn't know their names.

- Q Didn't recollect their names? A No sir, I didn't become familiar with the family.
- Q Did this fellow Stephen Lynch live on Emerson's place? A Yes sir, in a little cabin there.
- Q You became acquainted with Stephen himself better than the rest of the family? A Yes sir.
- Q Did you ever understand by conversation with him where he come from? A Yes sir, said he was from the Cherokee Nation.
- Q Did you ever hear him ~~that time~~ during that time, hear him talk of the Nation and what was going on down here or about coming back here any time? A Yes sir, he used to say he would have about four times as much land as a common homestead would be.
- Q Well he worked there for Mr. Emerson? A Yes sir.
- Q Well when, if you remember, was the first time that you remember that Stephen Lynch left Emerson's place up there, left that community? A Well in regard to that matter I desire to be fair to all parties, but I really have no dates at the time that Mr. Lynch left there, I didn't keep no record and the statement that I make is from memory.
- Q Well get at it as near as you can? A It has been about 40 years ago; it is a long while; now you want me to answer about his coming away from there; I think he went away from there sometime late in the fall of 1866, that is my best opinion about it and my recollection as near as I can recollect it; it seems to me that to be a correct statement.
- Q You think then he left sometime in the fall of 1866? A Yes sir, I couldn't do it or nothing of that kind only the year is plainly impressed upon my mind.
- Q How do you fix it was 1866? A Well I was married in 1865 and of course in the course of human events a child was born in our family August 15, 1866, and we didn't get to go to Emerson's for quite a long while afterwards, and we lived ten miles from there and had to stay at home with the child; that is one thing, the most important thing, I looked that matter up before I started down here and I am correct according to my Bible records about the birth of the child.
- Q Did you go to Emerson's sometime after the child was born? A Yes sir, that is my recollection, we went over there, my wife and Mrs. Emerson were friendly; while old Mrs. Emerson was kind of an aristocratic old lady but my wife went there; of course she took the baby along; I didn't stay long, I was busy, I was always counted a hustler.
- Q And after the fall of 1866 did Stephen Lynch ever come back up there after that? A My recollection is he came back, yes.
- Q When did he come back according to your recollection? A It was late in the spring of 1867.
- Q Did he work around there for Emerson for sometime that summer? A If he was on the farm, he did.
- Q Well do you know after he came back up there in the spring of 1867, do you know whether he left there again or not, whether he stayed there or left? A I think he was there all that summer.

- Q And about when did he leave that time? A He left again sometime late in the fall as near as I can recollect; I couldn't state that there.
- Q Did you see him after he came back up there in 1867 any time? A Yes sir, I saw him.
- Q Have any talk with him when you saw him, talk to him or anything like that? A Yes sir, I talked with him once or twice.
- Q Did he say anything about where he had been while he was gone, from his talk did you understand where he had been? A My recollection of it is he told me he had been to the Territory; that is the way it seems to me now; Mr. Emerson talked to me some about it and Mr. Emerson's conversation is more impressed upon my mind than the other fellows, but I can't prove none of it because the parties are all dead.
- Q Now what did you understand from conversation with other parties there, with Stephen Lynch?

MR. HASTINGS:

I am going to object if he is going to tell the conversation that this man had with other fellows around in there and in the presence of Stephen Henry Lynch.

MR. PATTEN:

I ask time for this reason, this is an old matter and I contend that it is proper evidence to prove all what was generally understood, all information that this man acquired by general conversation from Stephen Lynch and the people he associated with there.

- Q What did you understand from what Stephen Lynch told you where he had been and what he had been doing all the time he had been gone? A He just merely told me he had traded for a claim down in the Territory; I didn't know anything about the particulars at all.
- Q Did he say he had it at that time? A Yes sir, and another statement he made to me was that he had to get back to it in time to make hay.
- Q You saw him up there in 1867 and about the substance of what he told you was while he was gone he had got him a place down there, was it?

MR. HASTINGS:

I desire to enter my objection to that question because it is clearly leading and this is a witness introduced on behalf of the applicants and the witness ought not to be led.

ON BEHALF OF THE COMMISSIONER:

The objection will be noted.

A He had got him a claim; that is the way we had in those days, speaking about a claim.

- Q What was it he said about cutting hay? A Said he had to get back to it in time to make hay; I remember that distinctly, it seemed somehow or other; well he had a good record and worked hard and of course he wanted to make some hay.
- Q Did he leave that community again sometime in 1867 later on? A Well I couldn't say when he left or anything about that. I knew I was up there along sometime and they were gone.
- Q Have you seen him or known him up there since then? A Never saw him; I think about the last time I saw Mr. Lynch was sometime during the summer of 1867; I wasn't familiar with him, that is I didn't associate with him or anything of that kind, I just merely knew him.

BY MR. HASTINGS:

- Q About what time in the summer of 1867 the last time you saw him? A Well I couldn't just say, I am not sure whether I saw him in Mound City or Farlingville, it was one of the two towns; I am not sure which of the two towns it was in; I knew I wasn't there at the place, I knew that.
- Q You mean you were not over at the Emerson place? A No sir, I wasn't over there at that time.
- Q About how far did you live from the Emerson place at that time? A Ten miles.
- Q Then you never did live upon the Emerson place while Stephen Henry Lynch and his family lived there? A To say we made our home there I would answer that question no.
- Q You were living ten miles from there? A Well it is fully ten miles, maybe not quite that far; it is counted twelve miles to Farlingville and nine miles to the Emerson place from Mound City.
- Q I don't believe I have got in any way clear from you the time you last saw him, you said it was in either Mound City or Farlingville; what I am trying to get, at not the place, but your best judgment as to the time? A It was sometime in the summer; I was hauling goods and it was on one of these trips I saw him.
- Q Now of the three months in the summer, June, July and August, now which of those months do you think was the last time you saw him? A I would like to answer that question, but I can't because of the fact that I have no data to go by, but I knew it was in the summer time, because the roads were in good condition and I was making money.
- Q You knew it was one of those three months? A Yes sir, It wasn't in the spring, it was in the summer; If I made a statement I would say anywhere from the first of July to the first of September.
- Q Now what were you doing during those months? A I think I was hauling goods, freighting there.
- Q Between what place? A Westport and Kansas City, what is now Westport and Fort Scott; I used to haul for some firms at Fort Scott.

- Q Did you freight principally during the year 1867? A No sir, I didn't, I was a little erratic and I done a little bit of everything; I wasn't satisfied anyway, I didn't like the country; I was dissatisfied and disheartened and I was cussing the country all the time.
- Q That is hardly an answer, I was asking you about what you were doing while you were cussing the country? A Well it has been so long ago; I couldn't give a detail account.
- Q Did you make a crop? A I never farmed but once and that was in 1866 and Mr. Emerson and Lynch showed me how.
- Q On the Emerson farm? A No, a mile east of Mound City.
- Q How far was that from Emerson's? A Ten miles.
- Q And you put in a crop there? A Yes sir.
- Q What did you do in the fall of 1866, in September, October and November? A I was taking care of my corn and trying to get a living.
- Q What did you do now, say in the fall of 1867, September, October and November? A Well I was either on the road,-- don't remember just what I did do; I was either on the road freighting or else I was freighting around here, around Mound City, hauling sand or something like that.
- Q That was about ten miles from the Emerson place? A Yes sir; Mound City is nine miles; you see I moved in,-- I changed about a good deal and I tried to get my wife to coach me a little on that point.
- Q Your memory then is rather treacherous about dates? A I will have to confess that that is so; that has been so long ago but if it had been back to 1870 I could remember it because it has been more to my liking.
- Q Well what became of Stephen Henry Lynch's family in the fall of 1866? A I don't know what became of them but my opinion is that they stayed there in the cabin.
- Q And remained there during that winter? A That is my opinion; I never knew them to go away.
- Q If they ever went away you never heard of it? A I don't think they went away; I think they remained on the Emerson farm that is my opinion about it; he might have got somebody else to take them but I don't believe the man had the means and I think they stayed right there.
- Q Now then you never worked for Mr. Emerson in the month of December, 1866? A I don't believe I did; I only worked for him once in a while, I didn't work steady for him.
- Q You never worked for him in the month of January, 1867? A I don't know whether I did or not; I aint got no data; I couldn't swear I did or I didn't; I worked for him a little on and off around but I never kept no record of it.
- Q Now as near as you can recollect tell when you commenced work for Mr. Emerson? A Well I worked for him some in 1864, a little in the surveying line.
- Q I mean down at his place, on his place? A I have no recollection of ever working for him on his place; if I did, I don't know it; it has been passed from my mind entirely.

- Q You don't have any recollection of that at all? A No sir; I don't believe I worked any on the farm, that is to say to try to farm, because I had a distaste for farming any how; I was always handy with tools and I might have built him a table, something like that.
- Q Well if you had worked there for two or three months, you would remember that? A Yes sir; I knew I went away one time and he had sixteen or seventeen dollars he owed me and he didn't pay me the money and I told him to pay that to my wife and he gave her an order on a store.
- Q Where were you at the time? A I was out working; I would work two or three months maybe sometimes before I would get my pay. Q Were you in that neighborhood? A Yes sir, I was in that neighborhood in 1866.
- Q Well when you told him to give the order to your wife? A Well you have got me again; I couldn't say whether it was 1866 or 1867; that seems to impress it upon my mind because I had trouble getting my money out of Mr. Emerson, because he was peer at that time, but it wasn't no disgrace to be peer them days.
- Q What I am trying to get at the year? A I couldn't give you the year.
- Q Well was it in 1866 that you did that work for him? A I couldn't say, I wouldn't like to swear to it.
- Q Well was that the same year that you speak of Stephen Henry Lynch leaving there that you worked for Emerson? A I must have been doing some work for him in 1866; I would give \$100 right now if I had a written record of it to show you.
- Q I am not asking about the written record? A I haven't got the written record, it is just from memory.
- Q That is not the point I am asking you, I am asking you, regardless of years, was it the same year that you worked for Emerson, that you are testifying about about what Stephen Henry Lynch should have said and done with reference to this country? A I expect I done some work for Mr. Emerson, but I can't recollect whether I did or not, I can't remember.
- Q I don't think you are intentionally, but you are really evading the answer I am asking you; you have told about Stephen Henry Lynch living up there and you have told of some conversation you had with him and about him coming down here to make hay, and one thing and another; I am asking you now, regardless of years, if that was one and the same time while you were at work for Mr. Emerson? A Well it must have been, I couldn't say positively.
- Q But there is where you seen him? A It must have been; it is against me in the matter because I can't recollect him; I can't recollect the statement, I couldn't swear to it; I would not like to say whether it was 1866 or 1867.
- Q Now wait, suppose the records of Mr. Emerson should show that Thomas Barwick agrees to work a month for \$20 for me on Monday, the 27th day of September, 1867, and if his same diary should show on the 30th day of that same month that you did commence work for him at noon at \$20 per month, are you prepared to dispute that? A No sir, I would have to take Mr. Emerson's record for it; before I came down here I went to a friend of mine,

- M Mr Kennen, a lawyer, and I found out that written evidence was more important than oral evidence. I would not dispute what Mr. Emerson wrote there; and I would not dispute Mr. Emerson's word.
- Q Do you remember that on the very day that you commenced work for Mr. Emerson, namely Monday the 30th day of September, 1867, that that self same day that Mr. Emerson bought 6.76 acres of corn from Stephen Henry Lynch at \$7.50 per acre? A I don't remember anything about Mr. Emerson's business.
- Q Don't you know now after having your memory refreshed from this record that it was at that time that you had this talk with Stephen Henry Lynch and that he was there? A Well it might, have been, I don't know that it was, but it might have been.
- Q I am asking you now if you don't remember that while you were at work there that on the 9th day of October, 1867, that you had the chills? A I believe I remember that all right.
- Q Well I will ask you if you didn't chill for a good while, not only on the 9th of October but on the 10th and on the 11th, I will ask you if you don't now recollect that Mrs. Emerson went to a Doctor by the name of Kempton and got some medicine for you? A I believe what you say but I don't remember whether the medicine came.
- Q Do you remember a Doctor named Kempton? A No sir, I don't; I remember I laid down on a sick when I first had a chill; I know they gave me some medicine and doctored me up.
- Q I will ask you if you don't remember on Saturday October 12, 1867, if you and your family living there at Emerson's took his team and went to Oakwood to Henry and William Scott's? A Well we might have done that; I borrowed his team several times.
- Q Well now did you know a Henry and William Scott? A Yes sir.
- Q I will ask you if you remember while being there on the 14th day of October, 1867, if you got back there at noon from Henry and William Scott's at one o'clock and that Pagington was there digging potatoes and that you picked them up? A I don't remember that, I would not dispute the statement though.
- Q I will ask you if you remember the circumstances that on Tuesday, the 15th day of October that Barwick and Pagington were hauling fodder and corn west of the house? A No sir, I don't remember it.
- Q And I will ask you if you have any recollection upon that same day that Mr. Emerson paid Stephen Henry Lynch \$8.50? A No sir, I had nothing to do with Mr. Emerson's payments; I don't know nothing about it.
- Q Now then Mr. Barwick when I first called your attention to this you didn't remember Stephen working there at all during that fall, did you? A Well I am confronted with that thing, it must be something in it but I don't recollect no circumstances no more than if they never occurred now; that is just a fact.
- Q Now if you worked there as this diary of Mr. Emerson's shows, beginning on the 30th day of September, during the month of October and if Stephen Henry Lynch was there up until the 22nd of October, say for that length of time and worked there practically every day and lived in that little house, don't you now think that that must have been the time you had that conversation with Stephen Henry Lynch? A No sir, I don't think it was because Stephen was out in the field a good deal of the time.

- Q You were in a position to see more of him then while you were right there at Mr. Emerson's house than you did when you were ten miles away? A I can't hardly believe I was there; I know my wife was there and I would go there to see her.
- Q Are you prepared to dispute the diary of Mr. Emerson, entered on the 17th day of September, 1867, to the effect that Pagington and Barwick worked for me? A I am not, I couldn't dispute that.
- Q Do you remember that on that self same day that Steve, referring to Stephen Henry Lynch, leaving 13 1/2 bushels of corn with Mr. Emerson for safe keeping? A No sir, I don't.
- Q You don't recollect that at all? A No sir, I don't.
- Q You were there working for him, were you not? A Yes sir, but I didn't have nothing to do with him according to his business transaction; according to that I was there.
- Q You have got no distinct recollection of any of these transactions at all? A No sir, it is just like it never occurred to me; it is a revelation to me; I knew I was around Mr. Emerson a good deal at different times before that and afterwards; might I be allowed to make a little statement along that line?
- Q Just tell it? A Well I saw Mr. Pagington right lately,---
- Q Well I don't want any conversation you had with Mr. Pagington? A Well it is along that line.
- Q Well Mr. Pagington is not here and he is one of the witnesses that was to be here and I don't want any conversation with him. I will ask you if you remember of working on Saturday, October 19, 1867, of working until noon and at noon going to Oakwood? A No sir, I don't remember going over to Oakwood.
- Q Was there such a place as Oakwood? A Yes sir.
- Q I will ask you if you remember on the 22nd day of October, 1867, that Stephen and brother Bill start back to the Cherokee Nation, and that Thomas Barwick gets back and is not able to work, and that Steve took 7 1/2 bushels of corn out of the crib? A No sir, I don't remember the distinct transaction.
- Q Well you have got no recollection of being there when Steve and his brother Bill left there on October 22, 1867? A No sir, I couldn't swear to that.
- Q Did you know his brother Bill, whose name was William Buffington? A I had a slight acquaintance with him was all; I don't know where he went to or what become of him or anything of the kind.
- Q Do you remember that you were not able to work along about that time and that you were sick and got additional medicine on the 24th from Dr. Kempton? A I don't even remember the Doctor; I know I was sick and it took everything I had to regain my health.
- Q Now on Sunday, the 27th of October, 1867, I will ask you if you are prepared to dispute this entry in the diary; "Barwick leaves for parts unknown he not informing us whither he goeth."? A I went to Kansas City.
- Q How far was that away? A 72 miles.
- Q You remember that do you? A I remember that because I was sick at the time and I remember another circumstance that I am willing to testify about if you think it is necessary; it is a personal matter though.

- Q I don't care to go into it except that you did go away? A Yes sir, I did go away; it was the finest thing I ever did for myself.
- Q I called your attention to that thinking perhaps that I might refresh your memory of being down there at Emerson's? A I was there quite often, I couldn't recollect dates.
- Q You don't know what year that was in? A I am satisfied the diary is right about the year and I don't dispute Mr. Emerson at all.
- Q Then if Mr. Emerson's diary showed transaction of every day for for the year 1866 and 1867, the people who worked for him up there every day and from what he did, even to the minutest details you are not prepared to dispute that from memory 40 years, are you? A I would not dispute it under no consideration.
- Q Now Mr. Barwick if this diary shows that Stephen Henry Lynch was there from time to time during the year 1866 and if it shows that he was there on December 8, 1866 and worked four days during the week, are you prepared to dispute it? A Oh no.
- Q If this diary shows that he worked for Mr. Emerson for 14 1/2 days and that Jesse Vann his step-son, worked tew days during the month of January, 1867, are you prepared to dispute it? A No sir, I am not.
- Q If this diary shows that Stephen Henry Lynch was there on March 6, 1867, are you prepared to dispute it? A I would not dispute that diary.
- Q You would not dispute any item in it? A No sir.
- Q You had rather take that as written documentary testimony than your memory 40 years ago? A Why sur, I haven't got any written record like MR. Emerson.
- Q How old are you now Mr. Barwick? A I will be 63 years of age on the 13th day of next May, but I have been working hard lately and I am tired; I got away yesterday and went in my room and never come out at all, stayed there until this morning.
- Q Now prior to the time you worked for Mr. Emerson, whenever that was, you lived about ten miles away from him? A Yes sir, I went over there visiting, friendly visits you know; whenever he wanted a little work done and I would go out and help him do it.

BY MR. PATTEN:

- Q You say you farmed one year? A Yes sir, I farmed one season.
- Q You were not a farmer by occupation? A No sir.
- Q You say you didn't know much about how to farm? A I didn't know anything about it.
- Q What year was that? A In 1866.
- Q Who was it you said showed you how? A Steve Lynch and another old friend, now Dr. J.R. VanZant and Mr. Emerson, they all made fun of me and corrected my mistakes.
- Q So along say during the winter of 1866, which includes of course part of 1867, did you remember of ever seeing Stephen Henry Lynch of your own personal recollection living up there? A Up at Emerson's in 1866?

- Q Yes, in the winter of 1866 and 1867, have you any distinct recollection of seeing them living up there during that period?
A I think they were there.
- Q Do you actually know they were there, did you see them? A I am not positive whether I did just see them or not; I believe I saw them there to.
- Q Well can you swear that you did; you stated awhile ago,---? A I know they were there but I couldn't say about any dates.
- Q What I am getting at is this; awhile ago you stated that you were of the opinion that they were there that winter when Stowe made his first trip down here; that he didn't take them with him at that time; that it was your opinion that they were there; now what makes you think they were there? A I don't think he was able to bring them down here and take them back, that is just an opinion.
- Q That is an opinion, is it? A I just don't think he had the means to take them down there and bring them back; I think he left them there in Emerson's care and he went away.
- Q That is the way you form a pretty conclusive opinion in your mind that they remained there? A Yes sir, I don't think they left the farm until 1867.
- Q You don't think he was able to take them away? A I don't think he was able to stand the expense of the trip down there and back. I knew he left in 1866 on account of that other matter.
- Q Then as regards his family being there, your statement is about this, in your opinion they remained there that interval of time because you don't think he was financially able to move them there? A Yes sir, that is the way I thought the matter over in my mind since you gentlemen come up there.
- Q Since we submitted your name on the list of witnesses in this case did Mr. Keys, a marshal for the Cherokee Nation, call on you in your home in Pleasanton? A Yes sir.
- Q When did he come? A Well I think it was a few days before,--I don't know, just about New Years', right along there.
- Q Did he come down to your house? A Yes sir.
- Q That rainy day? A Yes sir.
- Q How long did he stay there? A About a half or three quarters of an hour.
- Q Discussed this case with you? A Put some small questions, yes sir.
- Q Did you see him or talk with him any time after that? A Yes sir, I went to the Hotel and had a little talk with him.
- Q He was stopping at the Hotel and you went up there? A Yes sir.
- Q Mr. Barwick, have you seen Mr. Paginton in the last few days?
A Yes sir.
- Q Do you know what the condition of his health is? A Yes sir.
- Q What is it? A He is very feeble.
- Q Would he be able to travel, make the trip down here? A No sir, he would not.
- Q On your cross-examination Mr. Barwick, Mr. Hastings asked you if you recollect this item that was put in this record, purporting to be a record kept by Mr. Emerson, which was on Tuesday, October 22, 1867; "Steve and brother Bill start back to the Cherokee Nation. T Barwick gets back not able to work. Steve

takes 7 1/2 bushels of corn out of the crib again." You stated now you didn't remember that? A Like as any way I was in the house sick as it also states there I was not able to work.

MR. PATTEN:

In connection with the cross and re-direct examination of this witness upon this point about which he was questioned by the Attorney for the Cherokee Nation, we desire to ask that that part of this record referred to by Mr. Hastings as being a record kept by Surveyor Emerson be copied into the record as it appears in this book.

MR. HASTINGS:

I have no objection.

ON BEHALF OF THE COMMISSIONER:

The request of the applicants will be granted and the entry in the diary is as follows:

"October, Tuesday 22, 1897.
Steve and Brother Bill start back to the Cherokee Nation.
T. Barwick gets back not able to work.
Steve takes 7 1/2 bushels corn out of the crib again."

BY MR. HASTINGS:

- Q Now Mr. Keys never attempted to induce you to swear anything else other than the truth in this case? A He advised me to tell the truth.
Q And he only asked you for information what you may know about it, A Yes and I volunteered that I would assist him in any way I could.

BY MR. PATTEN:

- Q Mr. Barwick, privately, what is your sentiment toward the colored person? A A Well now I think Roosevelt is right.
Q When he fired those negro troops? A Yes sir.
Q The truth is you are not at all favorably disposed toward the colored person are you Mr. Barwick; that is, you had rather help a white man than a colored person? A Well I would not injure a colored man because he is a colored man. I would not stop to quarrel with a colored man, nor I would not take him in my family under no consideration.

Q In the common way of expressing it you have not had much use for a negro? A I haven't got a bit; I wasn't one of these abolitionist like Mr. Emerson up there, and that is the reason I didn't get along with them.

BY MR HASTINGS:

Q You were brought here by the Attorneys for the applicants? A I suppose so.
Q You came here for Mr. Patten? A Yes sir.
Q He talked to you a number of times up there about this case? A Yes sir.
Q And the fact is you aided him in searching out some of them old people up there, didn't you show him the way to their houses? A Yes sir.
Q You went with him? A Yes sir.
Q To see a number of these old residents up there? A I took him around to see them.
Q And he paid you for it? A Yes sir, he paid me for my time.
Q I am not caring for that but I want to show you were not unfriendly to Mr. Patten, and you showed him and helped him all you could? A Yes sir, and I found him to be a fine gentleman and since we have been here he showed us to our place and has been around to see us.
Q Well your feelings toward a colored man is not such you would not tell the truth about a matter, is it? A Well I will certainly not do anything of that sort; I will be fair and honorable even if a colored man was an enemy of mine.
Q You would want to tell the truth about it? A Yes sir.

(Witness excused).

JOHN W. THOMPSON, being first duly sworn by B.P. Rasmus, a Notary Public, testified as follows on behalf of applicants:

BY MR. PATTEN:

Q State your name? A John W. Thompson.
Q How old are you? A 66.
Q What is your postoffice? A Farlinville, Kansas.
Q How long have you lived in and around there? A Since April, 1867.
Q You came to the neighborhood of Farlinville in April, 1867? A I came from Indiana there in April, 1867.
Q Have you lived in or about that neighborhood ever since? A Yes sir.

- Q Where did you settle when you came there, Mr. Thompson? A About a mile and a half northeast of Farlinville, and about two miles from Mr. Emerson's place.
- Q After you came there did you ever become acquainted with a colored man by the name of Stephen Lynch? A Yes sir.
- Q How when did you get acquainted with him; when did you first know him? A It was the latter part of May or June, 1867.
- Q Where was he living at that time? A He was living on Mr. Emerson's place about two miles southeast of where I lived.
- Q You got acquainted with him, personally acquainted with him, did you? A Personally acquainted with him from a business transaction.
- Q What was that? A Buying a cow.
- Q You bought a cow from him? A Yes sir.
- Q Well now after you became personally acquainted with him so you would have any conversation with him, did you ever have any talk with him about where he came from or where he belonged or anything like that? A I don't think I remember of him saying anything where he came from, but he told me in conversation about a claim or headright that he had in the Nation.
- Q Did he say he had a claim down here? A He said he had a claim in the Nation and was going to it as soon as he could make the present crop he had in, dispose of it and then move.
- Q Well how long did he continue to stay up there in 1867; about when did he leave? A I couldn't give the date of his leaving there; he left there sometime in the fall; I don't know a thing about him in 1866.
- Q But he left in the fall of 1867? A Yes sir, after he had disposed of his crop every one understood that he was going to his claim.
- Q Have you lived in that neighborhood continuously since that time? A Yes sir.
- Q Have you ever known of him or seen him up there since then? A No sir.

BY MR. HASTINGS:

- Q He just said he had a claim or headright down here in the Cherokee Nation? A That is what he said; he didn't tell me he had taken a claim; he said it was either a claim or headright down here.
- Q In other words he had a right down here? A Yes sir.
- Q And he said he was coming down here? A He said he was going to move to it as soon as he disposed of his crop.
- Q And sometime after he disposed of his crop he left up there? A Yes sir, he was gone.
- Q His family left up there with him? A Yes sir.
- Q Had some boys and children? A Yes sir.
- Q And they lived there on the farm at that time? A Yes sir.
- Q And you don't remember of seeing him until the last of May or June? A He was there and I might not have seen him.
- Q You didn't see him before that time? A No sir, not until I went to see this cow.
- Q In other words you were just over there? A No sir.
- ^

Q You moved into that country when? A In April, 1867.

(Witness excused).

Simon Lynch, being first duly sworn by B.P. Rasmus, a Notary Public, testified as follows on behalf of applicants:

BY MR. PATTEN:

- Q State your name? A Simon Lynch.
Q How old are you? A 76.
Q What is your postoffice address? A Spavinaw, Indian Territory.
Q You are a recognized freedman citizen of the Cherokee Nation?
A Yes sir, I guess I is.
Q Did you go out of the Nation during the war? A Yes sir.
Q When did you return? A '66, February.
Q Where did you settle? A Upon Cabin Creek where I stopped.
Q Were you acquainted with Stephen Lynch, a colored man, before the war? A We lived on the same place, both belonged to the same man.
Q You knew him before the war? A Yes sir.
Q When, if you remember, was the first time you ever saw him in the Cherokee Nation after the war? A In October, I believe; yes, it was in October.
Q What year? A '66.
Q Where did you happen to see him or how did you happen to see him?
A I seen him up there at the old place.
Q Where were you living? A Yes sir.
Q Where had he come from or did he say? A Kansas.
Q Was he by himself or did he have his family with him? A No sir, didn't have no family.
Q Came by himself? A No sir, there was some more men, just come horseback.
Q That was along in the fall of 1866? A Yes sir.
Q Did you make any kind of a trade with him while he was there that time? A Yes sir, I sold him an old place and cabin on it.
Q Where is that located? A It is below the Island Ford.
Q That was in the Cherokee Nation, was it? A Yes sir.
Q Did you make that trade shortly after he came down that trip?
A Made it while he was down here.
Q How much did he give you for it? A \$12 for it.
Q What kind of money did he pay you in? A \$10 gold piece and \$2 in silver.
Q He gave you \$12 for that place? A Yes sir, about two miles and a half below the Island Ford.
Q How far was that from where you lived? A About two miles and a half of where I live now.
Q Did he continue to hold that place after you sold it to him?
A Yes sir.

- Q Did he retain that place during his life time? A Yes sir, he died on part of it.
- Q Do you know who owns the place now, or holds it? A Yes sir.
- Q Who? A Old Aunt Richard Dean's grand-daughter.
- Q You say he was by himself when he made that trade with you? A There was some more come with him.
- Q How long did he stay around there? A A week or two.
- Q Then where did he go, did he leave? A Went back to Kansas.
- Q That is you understood he did? A Yes sir, there is where he said he was going, him and Crap Lynch went back.
- Q After that trip did he bring his family down there? A Brought it about Christmas.
- Q That same year? A Yes sir.
- Q Who were the members of his family? A Jesse, and Bill, and Judy, and his wife.
- Q What was his wife's name? A Peggie.
- Q About that time you know of a number of other people who came down to the Cherokee Nation? A Yes sir, lots of them dropping in every once in a while.
- Q Do you know in 1867, say the following spring after that winter, what were the conditions of times in the Cherokee Nation, pretty hard? A Hard times.
- Q Was it hard to get anything to eat? A Yes sir, corn was \$5 a bushel.
- Q Wasn't it common for a great many of these people to go back to the States and work? A Yes sir, to work and to get something to eat.
- Q You remember the citizenship Court, commonly known as the Bob Daniels Court held in 1871? A I don't know what year it was held in but I remember the Court, I was there.
- Q Where was it held? A Tahlequah.
- Q Were there a great many freedmen at that time summoned before that Daniels Court to settle their citizenship rights? A We were not summoned; just went down to see if they could stay here or not.
- Q Do you know whether Stephen Lynch was down there before that Court at that time? A He was right there.
- Q Were you in the same crowd? A Same crowd.
- Q Now when you were down there before that Court in regard to your citizenship rights, what if any action did the Court take in it? A Told us to go home; that we were not wanted yet.
- Q Did they ever enter into a trial at that time in the case of Stephen Lynch? A No sir, nor none of the rest of us.
- Q Told him the same as told all the rest of you? A Yes sir.
- Q Did that bunch of freedmen that went down there or any of them that you know after they told them to go home that they were not trying their cases, do you know whether they ever called them back for another trial? A Never did call them back.
- Q Well who told them to go back home? A Judge Daniels.
- Q The Judge of the Court, was he? A Yes sir.
- Q He told them that himself, did he? A Yes sir.

BY MR. HASTINGS:

- Q Simon you were a slave before the war, yourself? A Yes sir.
- Q How old are you? A 76.
- Q Can you read and write? A No sir.
- Q Do you know one year from another? A Yes sir, I think I do.
- Q Do you know what year it was you went down before the Bob Daniels Court? A No sir, I don't just exactly know what year it was.
- Q Were you admitted by them? A Didn't try anybody at all.
- Q Then there wasn't anybody admitted by it? A No sir, didn't do nothing with us only tell us to go back home.
- Q Are you willing to swear that now under oath? A That he told us to go back home?
- Q No, that nobody was admitted by that Court? A I don't know nothing about that.
- Q Did you know Mike Fields down there at that time? A Yes sir.
- Q Do you know whether he was told to go back home? A He lived there in Tablequah.
- Q Do you know Frank Vann? A Yes sir.
- Q Do you know whether they admitted him or not? A No sir, I don't know who they admitted; didn't admit none of us.
- Q Did you know Johnson Webber? A Yes sir.
- Q Do you know whether he was admitted or not? A No sir, I don't.
- Q Do you know old man Sam Webber? A Yes sir.
- Q Do you know whether he was admitted? A No sir, he wasn't then.
- Q Were any of the Webbers admitted? A Not as I know of.
- Q You don't know what year that was? A No sir.
- Q Well have you ever been convicted of larceny? A Yes sir.
- Q Convicted in the Cherokee courts? A Yes sir.
- Q You don't know what year that was you are trying to testify about being before the Bob Daniels Court? A No sir.
- Q Where is that little house you claim to have sold Stephen; how far from the old Lynch place? A About a mile and a half.
- Q Wasn't on the old Lynch place? A No sir.
- Q He didn't come back to the old Lynch place? A Yes sir, moved right on the old Lynch place.
- Q How long did he stay there? A Until he could fix up a house and get home to the place.
- Q So there wasn't any house on the place you sold him? A A little bit of a cabin not fit to go into.
- Q What time did he move down there? A Just a little after Christmas.
- Q Have his wife with him? A Yes sir.
- Q Have any children with him? A Yes sir.
- Q What were their names? A Bill, Jesse, Judy, and I forget the other ones' name.
- Q About how old was Judy? A I don't know.
- Q From looks, you were well acquainted with them? A She was a good big girl.
- Q 5 or 6 years old? A I don't know which.
- Q She was at least that old? A Yes sir.
- Q How old was Dan Henry? A He wasn't born.
- Q He was born down there was he? A Yes sir.

- Q Well they continued to live there, did they? A Yes sir.
- Q Clean up until the time he died? A Yes sir.
- Q All the time? A No sir, he didn't, he went back to Kansas, backward and forward to work.
- Q Well when he went back to Kansas how long did he live there before he went back? A Back in the spring of 1867.
- Q Well about what time, May or June? A I can't tell what time.
- Q Your best judgment? A It was along in the early spring, best I could recollect.
- Q He stayed down there ^{then} some 3 or 4 months? A No sir.
- Q About how long did he stay down there? A A month or two, two or three months.
- Q Stayed there with his family? A Stayed there and worked on his house and moved his family in it.
- Q And then went back? A Yes sir.
- Q It was after grass was it before he went back? A I don't know whether grass was up or not; I don't recollect, it has been a good while.
- Q Did you see Joe Davis when you went down at Tahlequah before the Daniels Court? A I don't recollect of seeing him; there was so many I couldn't tell only them that went with me.
- Q What year was the Wallace Payment? A I don't know sir.
- Q What year was the Kern-Clifton Payment? A I don't know that.
- Q What year were you married? A Never was married.
- Q Did you ever have any children? A Yes sir.
- Q When were any of them born; do you know the year any of them were born? A No sir, I don't.
- Q You don't know a single one of these years, do you? A No sir.
- Q What direction from this old Lynch place did this man move? A Right west.
- Q How far? A About a mile and a half.
- Q What was that place known as? A A Cherokee lived there.
- Q What was the name? A Hully.
- Q Wasn't any in cultivation down there? A Just a little bit of a patch.
- Q It had grown up during the war? A Well the old man lived there in that little old cabin; lived there all the time I reckon; I don't know how long he stayed there.
- Q You say Judy was 4 or 5 years old when they come down there? A I don't know just how old she was.
- Q You don't want anybody to come upon you on no date except 1866, do you? A That is you to do that.
- Q Do you know a single year except 1866? A Yes sir, lots more years.
- Q Now tell us when the Wallace payment was? A I can't tell you.
- Q Tell me when a single one of your children were born? A I don't know, I will tell you Mr. Hastings, I don't know, I can't keep no record, can't keep no dates.
- Q Can't keep no dates, can you? A No sir.

BY MR. PATTEN:

- Q Do you know whether besides that place you made a trade with Stephen for and sold to him, do you know whether or not he ever made any other claim down there or not? A He made a claim right this side of it.
- Q Was that before or after you sold him this first place? A It was afterwards.
- Q How long? A It was after he moved down.
- Q A year or two after, something like that? A I don't know just how long but it wasn't a year or two afterwards.
- Q These people ~~name down~~ you say were down before the Daniels Court that you knew, Stephen Lynch was one of them in that crowd of people that went from your neighborhood together? A Yes sir, Big Creek, Lightning Creek came down through right there by my place.
- Q They were the ones the Court told to go home, that they were not trying their cases? A Yes sir.
- Q Mr. Hastings asked you if you were ever convicted of larceny in the Cherokee Court, were you ever pardoned of that conviction? A Yes sir.

BY MR. HASTINGS:

- Q Don't you know Bob Daniels lived right up in that section of country in 1867? A Yes sir; I don't know whether it was '67 or not, I know he lived there on his old place.
- Q He was acquainted with all you people before and after the war too, wasn't he? A Yes sir, I was born belonging to him.
- Q He knew Stephen Lynch too, didn't he? A Yes sir.

BY MR. PATTEN:

- Q You say Stephen Lynch went back and forth to Kansas after he moved his family down there? A Yes sir.
- Q What did he do that for? A Work he said.
- Q Was times pretty hard in that settlement at that time? A Yes sir, couldn't get any bread at all hardly.

BY MR. HASTINGS:

- Q Was he pretty hard up when he was down there? A Yes sir.
- Q Did he have any horses or any teams? A Yes sir, had a poor old horse; Crap went up with him to help him move.
- Q No other property except household effects? A Yes sir.
- Q Didn't have any cows? A No sir.

(Witness excused).

JOE DAVIS, being first duly sworn by B.P. Hagans, a Notary Public, testified as follows on behalf of applicants:

BY MR. PATYEN:

- Q State your name? A Joe Davis.
Q How old are you? A Been be 52.
Q What is your postoffice? A Vinita, Indian Territory.
Q Are you a recognized freedman citizen of the Cherokee Nation?
A Yes sir.
Q Did you ever know a colored man by the name of Stephen Lynch in his life time? A Yes sir.
Q Did you ever know any of his children? A Yes sir.
Q Who were some of them? A Well I knew his children, step-children was Jesse Vann and Bill, Steve and Dan Henry, and there was a girl or two, I don't know them very well.
Q Did you go out of the Nation during the war? A No sir.
Q After the war was over were you ever down there in that neighborhood where Simon Lynch lived, through that country? A Yes sir.
Q When, if you remember, was the first time you ever saw Steve Lynch in the Cherokee Nation after the war? A Along in the winter of 1866.
Q About what time in the winter time? A Yes sir.
Q How did you happen to see him? A Well I was just up there and seen him up to his house.
Q How far did he live from Simon Lynch's? A I don't know that; it was over a couple of miles.
Q Was that near Grand River? A Yes sir.
Q When you saw him there do you know whether or not he had his family there with him at that time? A Yes sir, he was living there when I seen him.
Q Were you down there through that neighborhood any more for sometime? A No sir, I wasn't there; I don't know, I guess it was probably a year before I was there any more; right in that---
Q Did you see Stephen Lynch any more until you came back to that same neighborhood again? A No sir.
Q When was the next time you saw him, when you went back there? A I don't recollect, I think it was in the fall of '68.
Q You don't know where he was of your own personal knowledge in 1867? A No sir.

BY MR. HASTINGS:

- Q How old were you in 1866? A Oh I guess I was about 11 years old; I was born the 27th day of March, 1866.
Q Where were you living in 1866? A Part of the time I lived in Fort Gibson, part of the time upon the River there upon Spring Creek.

- Q What time did you move from Fort Gibson to Spring Creek? A Sometime in the fall.
- Q What time in the fall? A Well I don't recollect exactly what time it was; it was sometime after, along in the fall.
- Q Well how late was in the fall was it you moved? A Well I don't know exactly when I went up there to stay or not.
- Q Was it December, January or February? A It was later than that, it was along in the fall.
- Q Well I mean in December, winter of 1866, was it that late you went from Fort Gibson up to Spring Creek? A No sir, I don't hardly think it was that late.
- Q Who were you living with on Spring Creek? A I was at home with my Uncle.
- Q How did you happen to come up to Stephen Henry Lynch's? A I think I went with him.
- Q Stephen Henry Lynch? A No sir, I was there among them people in that settlement and us people at that time lived in settlements generally, a bunch of them together up there.
- Q What were you doing up there? A I couldn't tell you just went up there to be among our people, there wasn't much to do.
- Q Have you got any memorandum of this visit up there? A Not a bit only I can recollect of seeing lot of people together.
- Q How many cases have you testified here in the last six months? A I don't know, I have testified for several, in as many as I could testify in.
- Q Has Starr & Patten ever had a case down here within six months you haven't testified in? A I don't know nothing about that; I am testifying for these people I know.
- Q You live in Vinita? A Yes sir.
- Q And they live in Vinita? A That is right.
- Q Well now how many cases have you made affidavits in, motions to reopen, do you have any idea? A Well I will tell you that I have for all these people I know in this country.
- Q I am asking you how many cases you have made affidavits in to be reopened? A Probably 15 or 20.
- Q And you are only 51 passed now? A That is right sir.
- Q And you don't know what you were doing up there at the time? A Wasn't doing nothing; none of us never done anything to amount to anything at that time only split rails, and danced, and have roast beef and go to Pin meetings and that was about all was done.
- Q Where was this place that Stephen Lynch was living upon when you went up there? A Upon the old Lynch place on the Lynch Prairie.
- Q Living on that old Lynch place? A Yes sir.
- Q Well how far from the main house was he living or was he living in the main Lynch house? A Well sir I don't know just which one was the main Lynch house.
- Q How do you know whether it was in the negro quarters or the Lynch house he was living in? A I know it was an old log house.
- Q Well now who was living in the old Lynch house? A I couldn't tell you sir.
- Q Was any negroes or Cherokee living in the old Lynch house? A I didn't see any.

- Q How long did you stay there? A May be two or three days, I couldn't tell how long.
- Q Did you stay all night there? A I don't recollect whether I did or not.
- Q Do you remember now whether Steve Lynch lived in the old Lynch house or in the cabin there? A Well, I couldn't tell, it was an old log house.
- Q Was anybody else living there? A I don't recollect whether there was or not.
- Q You don't remember whether there was any other family on the old Lynch place at that time or not? A No sir, I don't recollect whether there was or not; there may have been somebody else in the house with him so far as that is concerned.
- Q You don't recollect? A No sir.
- Q You are the same man that testified in the Riley McNair case, aren't you? A That is what I am sir.
- Q You testified to going to the Jack McNair place and seeing Fred Martin's folks up there in the fall of 1866? A I don't know whether I did or not, I may have; I know they lived on one of the McNair's places up there.
- Q Now you don't remember anybody else that was on the Lynch place at that time? A No sir, not particular I don't.
- Q I am not asking about particular, but do you remember anybody? A Yes sir, I remember Uncle Steve Lynch.
- Q Now in what house was he living? A In a log house that they called the old Lynch place.
- Q Was it in the main Lynch house? A I don't know which it was, whether it was the main house or not.
- Q How far was the place from the River? A Oh I don't know, it was probably two or three miles I think.
- Q Do you know what direction the River was from it? A No sir, the River runs, --lets see,--the River runs all around it, there is kind of a bend there, but I think though it is west.
- Q You think the River is two or three miles? A Yes sir, here is Uncle Simon's place over here and right west is the old Lynch place.
- Q You don't remember what month you were there? A No sir, it was along in the winter, along just before Christmas, cold weather I knew.
- Q I will ask you if in every case you have testified in if you haven't seen them just before Christmas, 1866? A Yes sir, because it was that time I went up there.
- Q You never did see anybody in here in the so cases you testified in except just before Christmas, 1866? A Yes sir, I seen lots of them at Fort Gibson when these negroes first came in this country.
- Q Don't you know that old man George Scrapper was living on that Lynch place in 1866? A I don't know.
- Q Well you don't deny it do you? A No sir, I couldn't, because I don't know.

BY MR. PATTEN:

Q You testified in the Mayfield case, didn't you Joe? A Yes sir.
Q We were the Attorneys in that case, weren't we? A Yes sir.
Q You testified in the Hardrick and Lyon cases? A Yes sir.
Q We were the Attorneys in that case? A Yes sir.
Q You testified in the Riley case? A Yes sir.
Q We were the Attorneys in that case? A Yes sir.
Q You made an affidavit to support a motion for a new trial in the Nelson Martin case? A Yes sir.
Q We were the Attorneys in that case? A Yes sir.
Q You are a witness in this case? A Yes sir.
Q Isn't it a fact that most all these cases are people who settled in the same neighborhood on Grand River? A That is right; they settled in the same neighborhood; we all settled up in that country together.

BY MR. HASTINGS:

Q How far was it on Spring Creek up to this Lynch place in 1866? A I can't tell you exactly, but I think it must be somewhere between 16 and 18 miles.

BY MR. PATTEN:

Q When did you live on Spring Creek? A From '66 until '68; we were the first ones moved out of that country; moved on the west side of the River; directly after the war they moved there in squads.

(Witness excused).

MR. HASTINGS:

It is the desire of the Cherokee Nation to have Simon Lynch recalled for the purpose of cross-examination as to this sentence in his ex-parte affidavit made before J.C. Starr and witnesses by J.C. Starr and Guy Patten on the 6th day of December, 1905, filed in this case; "I don't remember of them (referring to the family of Stephen Henry Lynch) going back to Kansas late in the spring of 1867 although it is possible that they did go back to Kansas in the spring of 1867 to get work for support as times were very hard in this part of the country in those days, and the darkeys had a very hard time to get something to eat."

MR. PATTEN:

Attorneys for applicants have no objection whatever.

ON BEHALF OF THE COMMISSIONER:

The witness Simon Lynch had left the room prior to the request of the Cherokee Nation and cannot be found at this time.

JOSEPHINE HUMISTON? BEING first duly sworn by B.P. Rasmus, a Notary Public, testified as follows: on behalf of Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Josephine Humiston.
Q How old are you? A 72.
Q What is your postoffice? A Warlinville, Lynn County, Kansas.
Q How long has that been your postoffice? A Ever since Warlinville postoffice was established.
Q Where were you living in the year 1866? A On the same property I am living on now.
Q You are living at the same place? A Yes sir.
Q You lived there of course during those years of 1866 and 1867?
A Yes sir, I lived there then.
Q You have previously given testimony before the Commission to the Five Civilized Tribes with reference to a freedman family, the head of which was known as Stephen Henry Lynch? A Yes sir.
Q You knew him, did you? A Yes sir.
Q Did you know his wife? A Yes sir.
Q And you knew his children? A Yes sir.
Q You testified also when you were upon the stand with reference to a diary kept by your deceased husband, for the years of 1866 and 1867, did you not? A Yes sir.
Q What was your deceased husband's name? A William B. Emerson.
Q I will ask you to examine these two books and state whether or not they are the diaries that you identified before when you were upon the stand as being the diaries of your deceased husband, Mr. Emerson? A These are the books that Mr. Emerson wrote in daily.
Q And you also recognize this one in 1867? A Yes sir, it is the same, in 1867.

MR. HASTINGS:

I desire now to offer in evidence the two diaries referred to as being the diaries of Mr. Emerson, now deceased, but identified by the witness upon the stand, for the purpose of showing and calling especial attention to, first, entries therein with reference to the transaction of Mr. Emerson with Stephen Henry Lynch and members

of his family which will show the dates thereof; second, for the purpose of showing in detail how minutely Mr. Emerson kept a transaction of everything that went on around or about him; and third, for the purpose of showing the dates upon which the said Thomas Darvick, a witness introduced here on behalf of the applicants, was at the home of Mr. Emerson, the deceased husband of the witness upon the stand.

MR. PATTER:

I have no objection.

ON BEHALF OF THE COMMISSIONER:

The request of the Attorney for the Cherokee Nation will be granted and the records will be copied and made a part of the record in this case.

MR. HASTINGS:

For the purpose of showing at times during the years 1866 and 1867 when Stephen Henry Lynch and members of his family is referred to in said diaries attention is invited to the following entries on the following respective dates.

January 8, 1866. Go to Fickes' mill got 272 lbs. of flour at 7 cts per lb. \$19.04 one sack \$1.00 & \$4.42 cash total \$24.46.
Paid to Sutton for B. Fouts for S. Lynch \$27.00 to Steve 100 lbs. flour \$7.00 total \$34.00 & leaves \$67.00 due Steve.

January 29, 1866. Pay Steve \$5.00 for wood chopping hauling etc. and go to Linville to commence survey of road from Linville toward Garnett in Anderson Co. So.

March 9, 1866. At Road Record Linville and Garnett. Pag & Steve trade. Pag pays Steve \$3.00 for me.

March 16, 1866. At Road record L & S road. Steve worked yesterday for me being 1st day of months work.

April 2, 1866. Borrow \$45.00 of Steve and pay Amount \$45.00 including Teakettle at \$1.75 and Guineas at .50.

June 25, 1866. Help Steve cut wheat.

June 26, 1866. Finish his wheat and commence cutting my Eye.

July 6, 1866. Stack Steve's wheat. A Shower about 1 o'clock. Rains hard in the night.

August 24, 1866. Frost this morning slight says Steve. Stack hay today.

September 3, 1866. Stack hay, Steve helps.

September 7, 1866. At home. Steve helps top out a stack of hay. Pay Steve \$2.35 for haying. chore for McRea who is sick.

September 13, 1866. Commence grinding Steve's sugar cane in P.M.

September 14, 1866. Continue making molasses for Steve.

September 15, 1866. Finish Steve's molasses 45 gallons in all. Give 1/4 for use of mill. Strip cane in P.M.

September 20, 1866. Commence grinding sorghum cane in P. M. Boys & Steve in P. M.

September 22, 1866. Continue grinding sorghum, Hulbert and Frear help. Steve goes to Ft. Scott.

September 24, 1866. Go to Dist. Court. Steve & boys Fraer & Hulbert & Pagington work at molasses.

September 25, 1866. Pag., Steve & boy & Mr. Frear help in molasses making.

September 26, 1866. Pag. goes home at noon, Hulbert at night, Steve & boys continue.

September 27, 1866. Steve all day. Boys 1/2 day.

September 29, 1866. At Dist. Court, discharged from duty of G.J. Give Frear 5 gallons molasses for labor. 250 gal. molasses made & raised on the place. 45 Steve, 100 McRea, 100 mine, 1/4 of all Volfingers.

October 8, 1866. Paid Steve for work \$5.00.

October 15, 1866. Steve commences work.

October 17, 1866. Cole quits mowing in A. M. J.Q.A. & Pag help, Frear & Steve continue their work.

October 18, 1866. Rain seen after day light. Frear, Steve help all day, Pag. & J. Q. A. help one half day.

December 8, 1866. Continue same and go to Baileys at night. David Frear and Steve each worked four days for me this week.

January 30, 1867. At home recording. Steve and Jesse haul hay. Very pleasant, getting warmer, 46 above zero at noon.

January 31, 1867. Owe Steve for 14 1/2 days on month but reduce the same by paying him cash 5.00, lamp & oil can 1.25, credit him with Jesse's work two days on the road and one hauling hay.

March 6, 1867, Snowing so I stay at home. Pay Steve 20 cts. toward his work.

March 24, 1867. Pay Steve \$4.00 for Pagington.

April 17, 1867. Peggie gets 10 gallons of molasses for Steve Lynch.

April 21, 1867. Pay Steve 60 cts. told money and \$6.00 toward Cal &c.

April 22, 1867. Steve works.

April 23, 1867 Steve works.

May 19, 1867. Steve's Sarah dead and buries today.
June 7, 1867. Got two bushels corn meal of Steve
at \$3.20.
June 13, 1867. Pay Steve \$7.50, \$3.60 of which is
for his meal & toll money of the 7th inst.
June 20, 1867. 1.10 to Steve on balance months
work.
July 1, 1867. Steve hauls wood 1/2 day.
July 2, 1867. Frear, Dewey, Mumford & Steve cut
wheat.
Frear, Steve & Dewey Mumford harvest wheat.
Splendid shower in P. M.
July 4, 1867. Mr. Frear & Steve harvesting wheat.
July 5, 1867. David Frear and Steve only cut at
wheat & rye today. Rained last night.
July 6, 1867. Steve, David Frear & Dewey Mumford
work 1/2 a day at harvesting.
July 8, 1867. David Frear, E.D. Mumford and Steve
harvest Rye & wheat.
July 9, 1867. Steve plows corn with the old mare
west of the house.
July 10, 1867. David Frear and Steve at wheat and
Rye all day. E. Dewey Mumford 1/2 the day except Steve
plowed corn and hoed potatoes &c. in A.M.
July 16, 1867. Steve works at wheat.
July 17, 1867. Steve works at wheat.
July 18, 1867. Steve binding wheat & rye.
July 19, 1867. Steve pays 90 cts. toll for me at
Farlin & Eastens mill.
July 20, 1867. Steve hoes corn for me and finishes
tying up the wheat.
July 21, 1867. Steve gets 3/4 gal. Molasses.
July 23, 1867. Steve hoes corn today.
July 25, 1867. Stack wheat & rye in A.M. T
Hulburt, Steve & Jesse Lynch help me.
July 29, 1867. Steve & Jesse haul in balance of
Rye & Oats & stack it.
July 30, 1867. Steve completes digging cellar
drain & charges \$4.00 therefor.
July 31, 1867. Steve putting in rocks in drain.
August 4, 1867. Pay Steve 22.90 & square accts.
Pay Peggy 3.50 & square accts.
August 15, 1867. Pay Steve \$10.00 for 10 days
work commenced on the 5th inst.
August 17, 1867. At home. Steve helps chere in
the P. M.
August 19, 1867. Steve 1/2 day, Hulburt, Wm. Mumford
& David Hill help at hay all day.
August 20, 1867. Steve starts to Cherokee Indian
country.
September 3, 1867. Steve hauls two little jaggs
of wood.

September 30, 1867. At home, sow some wheat. Measure corn ground bought from Steve amounting to 6.76 acres at \$7.50 acre. Thomas Barwick commenced months work at noon at \$20.00 per month.

October 6, 1867. Pay Steve 4.50 cash. Pay merchandise, apples .50, Coffee & Tea 2.00, Ayers Ague Cure 1.00.

October 15, 1867. Pay Steve 8 1/2 dollars.

October 17, 1867. Steve leaves 13 1/2 bushels of corn with me for safe keeping.

October 19, 1867. I go to convention at Centerville. Get 15.00 dollars due me of McKee, also 17.00 dollars which borrow of McKee to pay Steve. McKee goes home with me and trade horse with Steve. Give McKee 40 cts for Jesse.

October 20, 1867. Pay Steve \$36.00 cash.

October 21, 1867. Pay Steve \$17.25 toward corn and 25 cts. to Bill & Jesse also \$1.00 for corn in the crib.

October 22, 1867. Steve & Brother Bill start back to the Cherokee nation. T. Barwick gets back not able to work. Steve takes 7 1/2 bushels corn out of the crib again.

BY MR. HASTINGS:

Q I will ask you Mrs. Humiston if this was also your husband's day book? A Yes sir, it was his day book.

MR. HASTINGS:

I desire to read from the day book identified by the witness the following item on January 31, 1867:

Stephen Lynch Cr.

By 14 1/2/ 26 months work at \$20.00 per month.		11.15 7/10
Also by three day work by Jesse at 25 cts. per day, 1 day hay hauling, 2 road		.75
& by paying toll &c		.50
Dr.		
To cash	5.50	
Lump & oil can	1.25	6.75

MR. HASTINGS:

I desire to call especial attention to the following items with reference to Thomas Barwick.

September 27, 1867. Tho. Barwick agrees to work a month for \$20.00 for me.

September 30, 1867. Thomas Barwick commenced months work at noon at \$20.00 per month.

October 1, 1867. T. B. at work.

October 9, 1867. Tho. Barwick chills in P. M. and does nothing.

October 10, 1867. Tho. chills in evening, did a few chores.

October 11, 1867. Barwick still chilling.

October 12, 1867. Thomas Barwick & family take my team and go to Oakwood to Henry & Wm. Scotts.

October 14, 1867. T. Barwick gets back from Henry & Wm. Scott's at 1 o'clock P.M. digs potatoes. Barwick picks them up.

October 15, 1867. Barwick and Pagington hauling fodder and corn from patch W. of house. Pay Steve \$ 1 1/2 dollars.

October 16, 1867. Pagington & T. Barwick both working for me.

October 17, 1867. Pag. & Barwick work for me.

October 18, 1867. T. Barwick harrows awhile commences to plow & takes a chill about 10 o'clock A.M. & quits for the day.

October 19, 1867. T. Barwick works until near mid P. M. then goes to Oakwood to line yesterday & today making about 1 days work.

October 22, 1867. T. Barwick gets back not able to work.

October 23, 1867. Barwick not able to work. He goes to town with us.

October 25, 1867. Barwick able to do some work.

October 26, 1867. Barwick chops down a hickory east of the house on the side hill & rolls part of it down hill.

October 27, 1867. Barwick leaves for parts unknown he has not informing us whither he goeth.

BY MR. HASTINGS:

Q You have already testified that you are the same person who was the wife of the Mr. Emerson who kept these diaries? A Yes sir.

Q You were his wife at that time? A Yes sir.

Q You say you knew Stephen Henry Lynch and his family? A Yes sir.

Q About how far did you live from them during these two years of 1866 and 1867? A It was near 100 yards.

Q They were living on your place? A Yes sir.

Q Where did you get water? A From the same spring.

Q Did you both live on the same side of the spring? A No sir, I lived on the north side and they lived on the south side.

- Q Could you see their place from yours? A We could see the house.
- Q Did you ever miss Stephen Henry Lynch from your place for any length of time prior to August, 1867, as is stated by the diary of your husband? A No sir, he never was away any length of time to my knowledge.
- Q Do you know whether he and his family lived there in that house, which you have mentioned, through the entire year of 1866 and the winter that followed it and up until the summer or fall of 1867? A Yes sir, they were still living there all that while.
- Q Did his family ever live there during that fall or winter of 1867? A No sir. *leave*
- Q Did Steve ever live there so far as you know up until August, 1867? A Not to be gone any length of time.
- Q Did you ever miss him from there? A No sir.
- Q Did you know his wife well? A Well acquainted with her.
- Q About how long did they live on your place? A They came in the spring of 1863 and left in the fall of 1867.
- Q Did this man Thomas Barwick ever work for your husband prior to September, 1867? A No sir.
- Q You knew him I believe you stated? A Yes sir, I knew him.
- Q And he did work there as this diary states? A Yes sir, he worked for a short time.
- Q Did you remember his wife? A Yes sir.
- Q Did you know her previous to their marriage? A I knew her when she was young.
- Q Could it have been possible for Stephen Henry Lynch, together with his family, to have left your place in the late fall of 1866 and come to the Cherokee Nation and remain here some two or three months, or until the late spring or early summer of 1867 without your knowing it? A No sir, he could not.

BY MR. PATTEN:

- Q You say that Steve Lynch came up there about when? A That he first came to the place?
- Q Yes? A In the spring of 1863.
- Q Did he have his family with him when he came? A Yes sir.
- Q It would not be possible that you are mistaken on that? A No sir.
- Q You are sure of that? A Yes sir I am; I can tell you why if you want me to.
- Q All right? A I met them first in the fall of 1862 when my son was born, my only son and Peggie did some work for me; she did work for me all through the winter and then in the spring they moved on to our place; that winter they were living west of us perhaps three quarters of a mile and then they moved that spring following and made five crops there; and we passed right by their door every time we went out on the highway, as near as you pass this building when out on the street.

- Q Isn't it possible you could be mistaken a few months on any of these dates I say? A No sir.
- Q Isn't it possible you could be mistaken five or six months or four months as to when Steve Lynch came to your place? A No sir, it couldn't be possible.
- Q You are as positive of that as you are it is impossible for Steve Lynch to have been away from your place a month or two in the fall of 1866? A I don't understand your question?
- Q My question was, it is no more possible that you could be mistaken six months time as to when Steve Lynch came to your place? A No sir.
- Q You are just as positive about that, are you Mrs. Humiston, as you are that Steve Lynch wasn't away from that place for a couple of months; say a month, two months along in November or December or part of January, 1866 and 1867; that is impossible too in your estimation? A Yes sir, that is impossible.
- Q Now why is it impossible that Steve Lynch could not have left there along the fore part of December, 1866, say about the first week of it in December, 1866; is it possible that Steve Lynch could have left there at that time and been gone a month without your knowing it? A That is impossible.
- Q It is absolutely impossible that you could be mistaken about anything in this matter? A Yes sir, it is.
- Q It is impossible that you could be mistaken in your memory about matters that occurred 40 years ago? A It is impossible; I couldn't think of such a thing.
- Q It would be impossible for you to be mistaken? A Yes sir, impossible.
- Q It would be impossible for Steve Lynch to have left your place two weeks and come down to the Nation and bought him a cabin down here in December, 1866, and you not have known it? A I would have certainly known it.
- Q It would have been impossible for him to have done that and you not have known it? A I certainly would have known it.
- Q It would have been impossible for him to have left there and come down to the Cherokee Nation and bought him a little cabin down here on the public domain as a future home; it would have been impossible for him to have done that and made the trip back and forth for the length of time it would have taken, a week or ten days, it would be impossible? A I don't see how he could have done it; it is impossible.
- Q In fact he was living on your place in 1866? A Yes sir.
- Q That was just about 40 or 41 years ago? A Yes sir.
- Q And yet you are willing to swear, are you, that that man couldn't have been away from your place a week or ten days forty years ago and you not have known it? A I am willing to swear it.
- Q It is impossible then is it that you could be mistaken a few months on any of these times that you have testified about, is it? A I am telling the truth.
- Q Yes, I knew, I want to see how strong you are? A I am telling the truth.

- Q You mean to say yes to that question, do you? A Yes sir.
- Q You have testified several times in this case, have you? A Twice before.
- Q You have been just as careful every time as you have been this time? A Yes sir.
- Q You have been just as positive, have you? A Yes sir.
- Q Well you say you came in the spring of 1863; that is when he came on to the farm was it? A Yes sir.
- Q Are you the same Josephine Humiston that testified in the Freedman case here at Muskegee, on January 4, 1906? A No sir, I was not here in January.
- Q Are you the same Josephine Humiston who testified in Muskegee before the Commissioner on December 21, 1905, in the supplemental proceedings had in regard to the application for the enrollment of Jacob Bean, et al., as Cherokee freedmen? A Yes sir, I testified here that day.
- Q Now I will ask you if while a witness here if Mr. Davenport, the gentlemen sitting right there (indicating Mr. Davenport) didn't ask you this question; "Do you remember what year they went to your farm," (referring to Stephen Henry Lynch and his family)? A Yes sir, he asked me that question.
- Q And didn't you answer, "They came in the fall of 1865?" A No sir, spring of 1863.
- Q I am not asking now when they came? A I have always answered it that way, the spring of 1863.
- Q You are willing to swear then that you didn't make that answer? A It is the spring of 1863.
- Q You say now it is the spring of 1863? A Yes sir.
- Q You testified before the Commissioner down here on that date, December 21, 1905? A Yes sir.
- Q Now Mrs. Humiston you have examined that record carefully, have you? A I have looked it over somewhat but I can't swear to any of the dates there.
- Q You are not attempting to swear from that record? A I am attempting to swear that those books were kept by my husband.
- Q Other thing s came from your memory? A Yes sir, I remember from the birth of my son; he was born in the fall of 1862, and then in the spring they moved on to my place and they raised five crops there.
- Q When you were testifying about it being absolutely impossible for Steve to have been away from there as much as a week, you were testifying from your own recollection? A Yes sir, because I knew when he wasn't working for my husband he was working wherever they wanted him to work.
- Q You are testifying from your own independent recollection? A Yes sir, I remember it.
- Q You were not testifying then from the record, testifying from your own independent recollection? A From my recollection.
- Q You could have testified just as positively and strongly without the record? A I couldn't have given the dates, only the year.
- Q When you testified that it was impossible for him to have been away from there a week and been down here, you could have been just as positive about it without the record? A Yes sir, I think I would have felt sure in my mind that I was telling the truth.

- Q That your positiveness as a witness in this case is based on your own memory and your own recollection and not because you have that record? A What I remember, I remember, Yes sir.
- Q I will ask you, and if necessary you may examine the record, if that record doesn't show, as Mr. Hastings read from it, Steve working for your husband every few days and part of the time continuously from January 6, 1866, March, April, June, July, August, and almost every day in September continuously, 1866, doesn't it? A Yes sir.

MR. PATTEN:

At this point in order that we may be certain that the record show a copy taken directly from the book identified by the witness, we desire to ask that that part of the record referring to Stephen Lynch on page 2 be copied into the record.

MR. HASTINGS:

I have no objection; let the Attorney for applicant read it.

MR. PATTEN:

January 31st.	Stephen Lynch Cr.	
By 14 1/2/26 months work at		
\$20.00 per month		11.18 7/10
also by three day work by Jesse at		
.25 ets. per day 1 day hay hauling		
2 road		.75
& by paying toll &c		.80
	Dr.	
To Cash	5.50	
Lamp & oil can	1.25	6.75

- Q In 1866 who were your nearest neighbors other than Steve Lynch?
A Mr. McKee, Mr. Hulburt, and Mr. Mumford, step-son of Hulburt
- Q Who worked for Mr. Emerson in 1866? A He had a good many to work for him; Mr. Frear was one and his son David.
- Q Where did they live at that time? A Just north of us.
- Q How far? A Adjoining farms.
- Q Where do they live now? A The old gentleman is dead and the children are scattered.
- Q Did he have one son living there at that time? A Yes sir, three sons, his son David was a man grown, and he worked a good deal.
- Q Where is David? A He is dead.
- Q Where did he die? A Near Centerville, Kansas.

- Q He continued to live in that community until he died? A Well he married and lived just a short distance from us when he died.
- Q Did any one else besides Frear you remember worked for you?
A Paginton.
- Q Do you remember any one else? A David Hill.
- Q Where does he live now? A I dont know.
- Q Did he leave that country? A Well he did but I have heard of him quite often, but I dont know his whereabouts now.
- Q Was he there in 1867, Mr. Hill? A I am not certain about that.
- Q Did he work for you, for Mr. Emerson in 1867? A I am not certain about that.
- Q You knew he worked for you sometime about then, do you?
A Yes sir.
- Q You dont know what year it was? A I dont know which year; I cant say now just which year it was.
- Q When did he leave that community up there? A I dont know just what time he left; he was a single man.
- Q You dont know what year he worked for you? A I dont remember.
- Q And you dont know what year he left there? A No sir.
- Q Know of any one else that worked for you that afterwards left there? A Mr. Paginton worked quite often.
- Q When did Paginton move away from where he lived right close?
A He lives pretty near now, only four miles away.
- Q Did he live with you in 1866 and 1867 up there? A No sir, I think not, he lived where he does now, four or five miles away.
- Q Mr. McRae lived near you in 1866 and 1867? A Yes sir, in the same house where Paginton formerly lived.
- Q How long did he live there? A Perhaps one year.

BY MR. HASTINGS:

- Q If the notes of your testimony given on December 21, 1905, made you answer that Stephen Henry Lynch's family came to your place in the fall of 1863, that is a mistake is it? A Yes sir, that is a mistake they moved there in the spring.

(Witness excused).

MR. PATTEN:

At this point for the purpose of impeaching the witness, Josephine Emiston, I desire that that part of her direct examination conducted by Mr. Davenport at Muskogee, on December 21, 1905, in the supplemental proceedings which were had in the matter of the application for the enrollment of Jacob Bean, et al., as Cherokee Freedmen, that part which constituted the question and answer herewith: "Do you remember about what year they came on your farm? A They came in the fall of 1863." We ask that that be made a part of this record.

MR. HASTINGS:

I have no objection.

ON BEHALF OF THE COMMISSIONER:

There being no objection the request of the Attorney for applicants will be granted.

ON BEHALF OF THE COMMISSIONER:

It now being five o'clock P.M. the hearing of this case will be continued until nine o'clock A. M. tomorrow, January 11, 1907.

January 11, 1907.

In pursuance of continuance above noted, this case being called for further hearing, the following proceedings were had:

LEANDER KRAH, being first duly sworn by John B. Tidwell, a Notary Public, testified as follows on behalf of applicants:

BY MR. PATTER:

- Q State your name? A Leander Krah.
Q How old are you? A About 54.
Q What is your postoffice? A Vinita, Indian Territory.
Q Are you a recognized Freedman citizen of the Cherokee Nation?
A Yes sir.
Q Did you go out of the Nation during the war? A Yes sir.
Q When did you return to the Cherokee Nation after the war? A Well I come down in the fall of 1866.
Q About what time? A Terrible early, about October sometime.
Q Somewhere along in October, about that time? A Got down here about that time, yes sir.
Q Were you ever acquainted with Steve Lynch, a colored man, during his life time? A Yes sir.
Q Did you know him before the war? A Yes sir.
Q Do you know whether or not he went out of the Nation during the war? A Yes sir.
Q When was the first time that you remember that Steve Lynch came back to the Cherokee Nation after the war? A Shortly after I come down.
Q The same fall? A Yes sir.

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- Q Where did he go at that time he came down, do you know?
A He went to Simon Lynch's.
- Q Well when he came down that time do you know whether or not he brought his family with him? A No sir, didn't bring no family.
- Q Well about when did he bring his family down? A Somewhere during that winter, somewhere, I don't know what time though, about,--it was cold weather.
- Q Well when he first came down here by himself or at either time do you know whether or not he ever laid him a claim or got him a place down here? A No, not particularly.
- Q You don't know about that? A I don't know what about that.
- Q Well where did he live, where did he take his family when he brought them down here that winter? A He took them over there to where he died at; over there about Simon's, right out close to where he died, on the old Lynch place; seem to me about the same place he left, where he used to live.
- Q Did he live in that same neighborhood where he took his family after that up until his death? A Yes sir.
- Q Where did you live at that time? A I lived up there at that Dr. Thompson place, above him there.
- Q About how far away from that? A I guess straight through by crossing the River twice about two and a half or three miles probable.
- Q How far is it around? A I guess 12 miles, I expect, 10 or 12.
- Q Now after Steve Lynch brought his family down that winter, do you know whether he ever went back to Kansas again or not, or do you know? A No sir, I don't; I don't know much about him that way, he might have, I don't know.
- Q What was the condition of times in the Cherokee Nation at that time, pretty hard? A Yes sir, I reckon so.
- Q Do you know whether or not there was many or a great number of freedmen who went back to the states along in 1867, the year following the time they came down here in order to work or such as that? A I couldn't name the man.
- Q Were there quite a number of them did that? A Yes sir, had to and went back and worked a little while at a time, and some Indians too.
- Q Were you ever at what was known as the Bob Daniels Court, the Supreme Court of the Cherokee Nation, at Tahlequah in 1871, when it was held there? A Yes sir.
- Q Do you know whether there was a great number of freedmen appeared before that Court about that time? A Yes sir, there was a good many.
- Q That was at the time that they were supposedly summoned there in regard to their citizenship rights? A I suppose so.
- Q Well do you know whether or not that bunch of people or a large part of them from over there on Grand River where Simon Lynch lived and where Steve Lynch lived and where you lived, went down there? A Yes sir, pretty near all of them from that neighborhood went.

- Q Q Do you know of anything that happened down there in regard to these cases or any part of them about trying them or anything like that, why relate it? A All the old man said about, asked me what I was doing there, Bob Daniels himself. I had left his place and went down there just on my own responsibility and he asked me what I was doing there and I said I was just come down to see what you fellows were doing and he said no use for you to come down here, why you have got just as good a right as I have, in fact we are not wanting or calling for you fellows down here so you go on back home and go to work.
- Q Is that what he told a bunch of those people in your presence? A Yes sir, told all the people there at that time.
- Q He also told you there was no cause for you to be there, that you had a good right? A Yes sir, had as good a right as he.
- Q Do you know whether or not you were admitted by that Daniels Court? A I don't know whether I was admitted or not.
- Q Your citizenship rights ever disputed? A Yes sir.
- Q You are not on the 1880 Roll? A Yes sir.
- Q Your case was tried before the Commission here? A Yes sir.
- Q Your enrollment has been approved by the Secretary? A Yes sir.

BY MR. HASTINGS:

- Q You were a slave before the war? A Yes sir.
- Q How old do you say you are, A I am some over 56, but about 56, I am not 57 yet, not far from it.
- Q Was your father alive in 1871? A No sir.
- Q What was his name? A Jack Bean.
- Q Do you know the first year you ever saw Stephen Henry Lynch? A Yes sir, I know in '06 in the fall.
- Q you know it was 1866? A Yes sir.
- Q What are you so restless in your seat for why don't you sit there and answer? A I am sitting here.

MR. PATTEN:

Wait a minute, we object to this impertinent manner-----

On motion of the Commissioner this case was here continued until 1:30 P. M.

(Cross-examination of witness Leander Bean continued at 1:30 P. M.)

- Q Were you a slave before the war? A Yes sir.

- Q How old were you in 1866? A I was 16, 18 years old somewhere.
- Q Where were you living at that time? A Lived part of it in Kansas and part down here.
- Q Well after you come down here where were you first living? A Up here at the Dr. Thompson place.
- Q And how far was that by road, the way you had to go around to get down to this Jee Lynch place? A About 10 or 12 miles.
- Q Were you ever down to that Lynch place in the year of 1866? A Yes sir.
- Q What time in the year were you down there? A Oh it was along the latter part of October, somewhere along about then.
- Q At that time did you see Steve Lynch? A Yes sir.
- Q Did you see his family? A No sir.
- Q Did you ever see his family? A Yes sir.
- Q When did you see his family? A Along that winter, it must have been I expect a half month, maybe a month, somewhere along there; it was cold weather.
- Q Was it as late as the last of November? A It was later than that.
- Q Was it as late as January? A It was about Christmas time.
- Q What were you doing down there? A Went down to see them folks down there.
- Q Who was living on the Lynch place at that time? A This old man Stephen Lynch.
- Q Who else was living there? A I dont know of anybody else there in the house at that time.
- Q Who was living there in October when you were down there? A The same parties, that is Simon Lynch lived alone there.
- Q Dont you know that George W. Scraper was living in that Lynch house in 1866 and made a crop there? A I dont know as he made a crop.
- Q But he lived there? A I dont know, it seems to me he got out.
- Q Was he living there when you were down there? A Had been living but I dont think he was there then.
- Q Well who was living there at that time? A This old man Steve Lynch.
- Q Anybody else living there? A Well wasn't living in that house then, in his own house, a house he built before the war I reckon, he built it.
- Q And how far ffrom the main Lynch place? A It was right close, I dont just know how far.
- Q Now you say you dont know whether his family went back up there after you saw them after Christmas or not? A No sir, I dont know nothing about them going back.
- Q Were youdown there any time after Christmas, 1866, during the year 1867? A A good while afterwards.
- Q Were down there in the spring any time? A No sir, not in the spring.
- Q Were you down there in the early summer? A I didn't see them at all.

- Q Did you see them in the late summer of 1867? A No sir.
- Q Will you swear that Stephen Lynch didn't work for a Mr. Emerson up in Kansas for four days during the week ending January 8, 1867? A No sir, I wont swear that; I dont know nothing about him working there.
- Q Will you swear that Stephen Lynch and his family and that this Jesse Vann were not in Kansas, and that Stephen Lynch did not work for Emerson 14 1/2 days during the month of January, 1867?

MR. PATTEN:

We desire to object to the question because we are of the opinion that the record will show, while he paid him for 14 1/2 days work during January, 1867, the record does not show that the work was done at that time.

ON BEHALF OF THE COMMISSIONERS:

The objection will be noted.

- A I swear he come down here about Christmas time, somewhere in December.
- Q I asked you if you will swear he didn't work 14 1/2 days for Emerson in the month of January, 1867? A No sir, I wont swear it; I dont know nothing about it.
- Q You dont know where he was in the month of January, 1867? A No sir, I wont swear that.
- Q Will you swear where he was on March 6, 1867? A I dont know anything about the '67 business.
- Q Did you see him during March, 1867? A No sir.
- Q Did you see him during the month of April? A I didn't see him at all.
- Q Were you ever down at the Lynch place? A I have been there yes.
- Q I mean during the year 1867? A I have been down there.
- Q Well were you at the Lynch place during the year 1867? A Yes sir, I have been by there.
- Q Did you see Steve Lynch there? A I didn't see him.
- Q See any members of his family there? A No sir.
- Q When Stephen Lynch first settled after 1867 where did you find him? A I found him down below there where he died.
- Q Did he build a house down there? A I think he did, I am pretty sure he did.
- Q Pretty sure he built a house down there? A Yes sir.
- Q Did he build a new house when he come there? A Yes sir.
- Q And moved into it? A Yes sir.
- Q Out there in the woods? A In the edge of the woods.
- Q Made him a place out there, did he? A Yes sir.
- Q Do you know anything about him trying to get on a place of Anderson Benges? A No sir, I dont.

- Q Never heard of that? A No sir, I dont know anything about it.
Q Do you know anything about dates? A Not much.
Q You have got no record nor data about when you saw this family?
just depend on your memory? A I didn't keep any dates,
no records.
Q What year did they have the Wallace payment? A In '89.
Q Didn't you know they never made the payment that year? A I
dont about the payment, the Court is what I was thinking about.
Q Do you know when they made the payment? A Shortly after that
sometime.

(Witness excused).

TOBE BEAN, being first duly sworn, by E. P. Rasmus, a Notary
Public, testified as follows on behalf of applicants:

BY MR. PATTEN:

- Q State your name? A Tohe Bean.
Q How old are you? A 70.
Q What is your postoffice? A Ketchum, Indian Territory.
Q Are you a recognized freedman citizen of the Cherokee Nation?
A Yes sir.
Q Did you go out of the Nation during the war? A Yes sir.
Q When did you return to the Nation yourself after the war? A '66
Q What time in 1866? A Along early in the fall.
Q Were you ever acquainted with a colored man by the name of
Stephen Lynch any time in his life time? A Yes sir.
Q Did you know him before the war? A Yes sir.
Q Do you know whether or not he was out of the Nation during the
war? A Yes sir, he was out.
Q You say you returned yourself in the fall of 1866? A Yes sir.
Q Well now when was the first time that you remember of ever
seeing this Stephen Henry in the Nation after the war after you
came back? A Along in the winter of '66.
Q Was that the winter following the time you came back? A Yes sir
Q Where did you see him at that time? A At the Joe Lynch place.
Q In the Cherokee Nation? A Yes sir.
Q By Grand River? A Yes sir.
Q Was he there in the neighborhood of where Simon Lynch lived?
A Yes sir, right close there.
Q At the time you saw him there as you stated, in the winter of
1866, did he have his family there? A No sir, his family
hadn't come yet.
Q Did you see him sometime before the winter as you stated, when
was it you first saw him? A That was in that fall sometime;
he went back to Kansas then.
Q Did he have his family the first time? A No sir.

- Q Did you ever see him in the Cherokee Nation after he had his family here? A Yes sir.
- Q When was the first time you saw him then? A Along in the winter of '66, just before Christmas.
- Q Did he have his family living there? A Yes sir.
- Q What, if you remember, were the condition of times in the Cherokee Nation in the spring and summer of 1867 following their return, were they hard? A Yes sir, they were pretty hard.
- Q Do you know whether or not any or a large number of freedmen ever went back to the states from where they came after the war during that year? A Yes sir, several of them went back.
- Q Did you ever go back yourself? A Yes sir, I went back two or three times.
- Q What was it that rendered it necessary to make these trips back? A Provisions.
- Q Couldn't they get them down here? A No sir, not handy they couldn't. Wasn't any work or nothing to do.
- Q Were you ever before the Supreme Court of the Cherokee Nation about 1871, what is commonly known as the Daniels citizenship Court? A Yes sir, I was there.
- Q At the time you went did anybody else go? A Yes sir, lots of them went.
- Q Did that aggregation from around Grand River, that neighborhood, were they down there? A Yes sir.
- Q What, if any, kind of a trial, what did they do in regard to those citizenship matters? A Nothing, never done nothing.
- Q Did you stay or go home? A Went home after Judge Daniels told us to go home, that they didn't have no use for us then and we all come home.
- Q Well did this crowd that went there from that neighborhood on Grand River, did they go together? A Yes sir, a whole lot of them went together.
- Q And how long did you stay down to Tahlequah? A Two or three days, I guess.
- Q Did you stay until the Court told you what you said? A For us to go home, he didn't raise nothing on us.
- Q What did he say? A He just said he didn't have no use for us there, wasn't calling us there yet.
- Q Were you ever called before that Court any more, before the Bob Daniels Court? A No sir, wasn't called back there no more.

BY MR. HASTINGS:

- Q Were you a slave before the war? A Yes sir.
- Q You can't read nor write? A No sir.
- Q You testified in a great many of these cases for Starr & Patten, haven't you? A Three I believe.
- Q Well I will ask you if these same Attorneys had you to sign an affidavit to be filed in support of a motion to reopen the case of Rachel Whitaker, F B 166? A I don't know as I know her.

MR. PARTER:

The Attorney for applicants would ask that since the witness has stated that he didn't know her, that the Attorney for the Cherokee Nation explain more fully what the case is so that the witness may more intelligently answer.

ON BEHALF OF THE COMMISSIONER:

The suggestion will be noted.

- Q Her father is George Bryant; did you make an affidavit to support a motion to reopen that case? A Yes sir, if that is the Rachel,--Rachel McGhee when I knowed her.
- Q Are you the same Tobe Bean that made an affidavit for these same Attorneys to be attached to a motion to reopen in the case of Jennie Martin, D 197? A Jennie Martin,--Nelson Martin's daughter?
- Q Yes. A Yes sir.
- Q Are you the same Tobe Bean that made an affidavit to support a motion to reopen the case of Elias Downing, D 245? A Yes sir.
- Q Did you make an affidavit to support the case of Moses Riley D 258? A Yes sir.
- Q Are you the same Tobe Bean that made an affidavit to support a motion in the case of Emma Purdie D 255, a sister of Moses Riley? A I dont recollect making any affidavit to that effect/
- Q You made an affidavit in this case, the Jesse Vann case? A Yes sir.
- Q You made one to support a motion to reopen the Sam Landrum case, D 392? A Yes sir.
- Q You also made one to support a motion to reopen the Payton Martin case, D 304? A I dont think I had anything to say in Pate's case.
- Q Well did you or did you not? A I dont think I did; I dont recollect it if I did.
- Q Are you the same Tobe Bean that made an affidavit to support a motion to reopen the case of Katie Thornton, D 578? A Yes sir.
- Q You have testified in a good many cases, besides these? A No sir, I dont recollect that.
- Q How far did you live from the old Joe Lynch place? A About a mile.
- Q How far was it by road? A Just about a mile.
- Q Well when you first settled up there in 1866? A Oh it was about three miles then.
- Q Across the River? A I stayed on this side of the River awhile.
- Q At whose place? A At the Charles Landrum place.
- Q Who was living in 1866 on the old Lynch place? A Old man Scraper.
- Q Old man George Scraper was living there? A Yes sir.
- Q That was George W. Clark's father-in-law? A Yes sir.
- Q Did George Clark have occasion to be at old man Scraper's now and then? A I never saw him there.

- Q Well you made an affidavit to support a motion to reopen this case once? A Which case?
- Q This Jesse Vann case? A Yes sir.
- Q You didn't say anything in your affidavit, which was quite an extensive one, you didn't say anything about having seen Stephen Henry Lynch down here in the fall of 1866, did you,-- I mean in the early fall, that is down here by himself?
- A If it is there I made it.
- Q I say you didn't say anything about it in that affidavit did you? A No sir.
- Q Why didn't you? A Didn't know it was necessary.
- Q Where did you first see Stephen Henry Lynch in the Cherokee Nation after the war? A Over there at the Joe Lynch place.
- Q And Scraper was living on the Lynch place at that time? A I think he had moved back across the Prairie.
- Q Then Scraper had moved away before you saw Stephen Henry Lynch there? A When I saw him the first time he hadn't moved away.
- Q That was when he come horse back? A Yes sir.
- Q But when he moved Scraper was gone? A Yes sir, I think he had.
- Q Now when he moved where did you first see him? A On the Joe Lynch place in the old house he moved out of before the war.
- Q Where were you living then? A Down close to the mouth of Cabin Creek.
- Q Who were you living with? A Crap Lynch.
- Q Now about what was the first time in the year you saw Stephen Henry Lynch? A Along in the fall sometime, I dont know exactly what time.
- Q Early in the fall? A Yes sir, pretty early, about the middle of the fall.
- Q September? A I guess it was October.
- Q Before the middle of October? A It might have been before the middle, it was in October sometime.
- Q When did you next see him? A I saw him along before Christmas a short time.
- Q Well how long before Christmas? A A week or two I guess.
- Q Well now where did you next see him after that? A Right there at the same place he was living there.
- Q How long after Christmas before you saw him? A I saw him there Christmas.
- Q Well how long after Christmas? A Saw him until along the first of the spring.
- Q In March or April? A I dont know whether it was March or April it was one of them months.
- Q You saw him right along all the time until March or April? A Yes sir.
- Q And right there on the Lynch place? A Yes sir.
- Q Family was living there? A Yes sir, after they moved there his family lived there.
- Q You saw him and his family right along until March or April, 1867? A Yes sir, sometime directly after Christmas.
- Q Well you saw them from directly after Christmas until March or April, 1867? A Yes sir, I guess it was March or April.

- Q Well, dont you know he worked 14 1/2 days in the month of January, 1867, for a Mr. Emerson in the State of Kansas?

MR. PATTEN:

We desire to enter the same objection to that question for the reason that the record does not show for itself at what time these 14 1/2 days was done.

on behalf of the commissioner;
The objection will be noted.

- Q How long did he live on the Lynch place? A Until about the winter of 1867, I believe then he built him a house; bought him a place from Uncle Simon and moved there.
- Q In 1867? A Yes sir, I think it was '67.
- Q Winter of 1867? A Yes sir.
- Q And that was up on the edge of the Prairie? A Yes sir.
- Q And that was in the winter of 1867? A Yes sir, I think it was.
- Q That was known as the Hulling place? A I dont know what place it was; Simon claimed it.
- Q That was in the winter of 1867? A Yes sir, in the winter of '67.
- Q Well now did you see Stephen Henry Lynch during the spring of 1867? A I saw him early in the spring; I didn't see him late in the spring.
- Q Well what become of him, you were right there by him? A I think he went back to Kansas for work or something.
- Q Why didn't you state that in your affidavit to reopen this case on the 8th day of November, 1905? A Why didn't I make that statement?
- Q Why didn't you state it then that he went back? A They didn't ask me, didn't know I had to state that.
- Q Well then he had returned from Kansas the next time before he went up thereon to this place that he got from Simon in the winter of 1867, had he? A I think he went back when he was staying at the Lynch place.
- Q That is what I say, and when he come back the next time he moved up to a place he got from Simon? A Yes sir, he went back two or three times; I dont know how many times he went back.
- Q I will ask you if you didn't swear in your affidavit on the 8th day of November, 1905, with reference to seeing Stephen Henry Lynch and family as follows after swearing that you saw him in the fall of 1866; "While I was living with Anderson Lynch in the late fall or early winter of 1866 Stephen Henry Lynch, the father of Daniel Henry Lynch moved into a house he built at the commencement of the rebellion. This was on Joe Lynch's old place and had been used by Steve when a slave of Joe. Steve lived in this house until he could build him a new log House?" A Yes sir, he did.

- Q Now you swear he went back to Kansas in the spring of 1867?
A He might have built a house before he went back.
- Q You didn't swear that awhile ago, didn't you swear he went back to Kansas from the Lynch place and he come back to this new place in the winter of 1867 when he come back the last time?
A Yes sir.
- Q That is the truth, is it? A I aint decided yet whether it is the truth or not; how was it, now tell me again?
- Q Didn't you say awhile ago that Stephen Lynch went back from the Joe Lynch place to Kansas? A Yes sir.
- Q And didn't you say when he come back the last time, namely in the fall of 1867, that he got this place from Simon Lynch and built him a new house up there and lived there? A Yes sir, that was after he come back from Kansas.
- Q The last time? A Not the last time, he went two or three times.
- Q It was when he come back from Kansas in the winter of 1867?
A When he built the new house?
- Q Yes? A Yes sir, he built the house and then went after his family and when he come back he moved into it.
- Q Didn't you swear just now he lived on the Joe Lynch place?
A Yes sir.
- Q And didn't you swear he lived in the old house he lived in before the war? A Yes sir.
- Q And didn't you swear just now that he lived there until sometime in March or April, 1867, and then went back to Kansas from this same Lynch place? A Yes sir, I swear he went back to Kansas.
- Q And didn't you swear he went there from this old Lynch place, back to Kansas? A Yes sir, he went back from the old Lynch place.
- Q And didn't you swear that when he come back in the winter of 1867 he come back and went up and built a house on the place that he then bought from Simon Lynch? A I dont know, but what he built his house before he went back to Kansas, and didn't have it done and then when he come back he lived at the old Lynch place until he finished the house.
- Q You dont know about that? A I know that was when it was.
- Q You swore awhile ago positively that he got that from Simon in the winter of 1867? A It was just a claim.
- Q No house there? A No sir, laid a foundation for a house.
- Q Was that all there was? A Was when he bought it.
- Q Didn't you swear awhile ago he bought it in the winter of 1867 after coming back that last time? A I think it was in the winter of '66 when he bought it.
- Q Well I am asking you now if you didn't swear that other awhile ago? A Yes sir, a fellow is liable to make mistakes sometimes.
- Q Didn't you see him during the month of March, 1867?
A I think I saw him.
- Q Where was he? A There at the old Lynch place.
- Q Well how late in March? A I dont know, along toward the first.
- Q Did you see him in April, 1867? A I dont recollect seeing him.
- Q June? A No sir.
- Q July? A No sir.

- Q Well then if I understand you Stephen Henry Lynch never located at the old Lynch place but when he located he located up there on the place he got from Simon Lynch? A He lived there at the old Lynch place awhile.
- Q Just stayed there in the cabin awhile? A In the house, yes sir.
- Q Now Tobe you know Bob Daniels well didn't you? A Yes sir.
- Q You know him before the war, didn't you? A Yes sir.
- Q He lived up there in your community, didn't he? A Yes sir.
- Q And he knew all the older people around there, didn't he? A Yes sir.
- Q And all of you knew Bob Daniels? A Yes sir, knew his name anyhow.
- Q Dont you know that a great many Freedmen were admitted by that Bob Daniels Court down there in 1871? A Yes sir, a good many.
- Q And dont you know that they had to hear testimony in order to be admitted? A Yes sir.
- Q And dont you know they did? A They did.
- Q And he told you people to go back just because he knew of his own personal knowledge you came back too late? A No sir, he said we were all right.
- Q You knew they were trying cases when you were down there? A Yes sir.
- Q And witnesses were being examined? A Yes sir.
- Q And you know they were rendering decisions? A Never rendered any on my case.
- Q Any other case? A Some after I left.
- Q You know they admitted some after you left? A Yes sir, and heard testimony against us after we left.
- Q You did go back to Kansas, didn't you? A Yes sir.
- Q I want to refer back now, I will ask you if you remember of making an affidavit to support the motion to reopen the case of Payton Martin, D 304? A I dont recollect making that affidavit
- Q Do you swear you did or didn't? A If it is there and my name is signed to it, I must have made it.
- Q You cant read nor write, can you? A Yes sir.
- Q You wouldn't know it if you saw it? A No sir.
- Q Are you in the habit of making affidavits in these cases without reading or considering them?

MR. PATTEN:

We desire to object to the question and ask that if an affidavit was made by this witness in the Payton Martin case that the affidavit be read to him so he can be able to recognize it.

ON BEHALF OF THE COMMISSIONER:

The objection will be over-ruled.

A I believe that is the only one I dont recollect of making, I recollect all the others.

- Q You recollect all the others? A Yes sir, what you read to me.
Q And you have got no recollection whatever of making one in the Payton Martin case? A No sir, I aint, though if I can hear it read---
Q Did you come down here and testify in that case when we tried it? A No sir, I wasn't here.
Q You didn't know then when Payton Martin come back? A No sir, I never made one in Payton's case.
Q You didn't know then when he come back? A I didn't exactly know when he come back.
Q Well you say you didn't know exactly when he come back? A No sir.
Q When you,-- Nor you never saw him for sometime after you come back? A Yes sir, I saw him a little while and he went off to Texas.
Q Did you see him in 1866 or 1867? A I think it was in the spring of '67 when I first saw him and he went off south somewhere.
Q You saw him then in the spring of 1867 sometime? A Yes sir.
Q Was it in March or April? A March.
Q Where did you see him in March, 1867? A At his brother's Fred Martin.
Q Where did Fred Martin live? A Lived close to the mouth of Cabin Creek.
Q Well did you just see him there one time? A No sir, I seen him there several times.
Q Now when did he leave there? A In March sometime I think.
Q And how long was it after that that you saw him?

MR. PATTEN:

We desire to enter an objection to this line of cross-examination for the reason that it is immaterial to the case and irrelevant and consequently inadmissible, and further object to it because it would be matter improper to impeach the witness with because it is immaterial to the issues in this case, and we insist upon this objection.

MR. HASTINGS:

I will with-draw it, I dont care about that.

- Q I want to ask you if you didn't swear in your affidavit on May 25, 1906, before Jessie Patten, that you were acquainted with Payton Martin, that you know he came to the Cherokee Nation, Indian Territory, and was a resident therein prior to February 11, 1867? A Yes sir I guess I did.
Q You swear now that you never saw him until March, 1867, dont you, A Yes sir, I did swear that.
Q You swear pretty near anything when they fix up an affidavit, dont you? A No sir.

- Q Have you ever refused to sign an affidavit that has been fixed up? A Yes sir.
- Q In what case? A Lots of them.
- Q In what case have you ever refused? A Several of them.
- Q Can you name one? A Yes sir, a woman by the name of Mary Martin wanted me to sign and I didn't know nothing about her return.

BY MR. PATTEN:

- Q You said awhile ago I believe in answer to Mr. Hastings' question that you saw Payton Martin at his brother Fred Martin's about March, 1867, didn't you? A Yes sir.
- Q You made this affidavit in which you said as Mr. Hastings quoted, "I am acquainted with Payton Martin and know he came to the Cherokee Nation, Indian Territory, and established his residence therein prior to February 11, 1867?" A Yes sir.
- Q Is that true from what you know? A Yes sir.
- Q Now you were a witness in the Mayfield case, weren't you? A Yes sir.
- Q We were the Attorneys in that case? A Yes sir.
- Q And you were a witness in the Hardrick and Lyons case? A Yes sir.
- Q We were the Attorneys in that case? A Yes sir.
- Q You made an affidavit to support a motion for a new trial in the Nelson Martin case? A Yes sir.
- Q That is the same as the Jennie Martin case? A Yes sir.
- Q You made an affidavit to support a motion for a new trial in the Elias Downing case? A Yes sir.
- Q And in the Mose Riley case? A Yes sir.
- Q And you also was a witness in this, the Jesse Vann case? A Yes sir.
- Q You were a witness also in the Sam Landrum case, weren't you Tebe? A Yes sir.
- Q That case was on the return of Boney Sam Landrum, wasn't it? A Yes sir.
- Q Now these cases, isn't it a fact that the main applicants or their ancestors in these lists of cases that I have named to you and in which Mr. Hastings read to you, isn't it a fact they returned and settled in that same community, generally over there on Grand River? A Yes sir.
- Q Where did you live in 1866? A Right across the Creek on the east side of Cabin Creek; what they call the old Charlie Landrum place.
- Q You were at or near this neighborhood? A Yes sir.
- Q You knew these people, didn't you? A Yes sir.
- Q You could have known when one returned about as near as another?

MR. HASTINGS:

We object to this line of questioning because it is leading for a number of questions back.

MR. PATTEN:

Just cut out that last question.

- Q Could you have known then about as well when one of these people came back as near as another one did? A Part of the time, I couldn't sometime, they would settle way off.
- Q Well you did in this bunch of cases, didn't you? A Yes sir.
- Q Now after you returned home there from that Bob Daniels Court, in later times, since this Commission has been sitting, was your citizenship rights ever contested? A Yes sir.
- Q You were on a doubtful card once yourself? A Yes sir.
- Q Did you have a trial in your case before the Commissioner? A Yes sir.
- Q And what disposition was made of it, were you enrolled? A Yes sir, I was enrolled.
- Q That decision was approved by the Secretary of the Interior, was it? A Yes sir.

(Witness excused).

SAM WEBBER, being first duly sworn by B. P. Rasmus, a Notary Public, testified as follows on behalf of applicants:

BY MR. PATTEN:

- Q State your name? A Sam Webber.
- Q How old are you? A About 60.
- Q What is your postoffice? A Nowata, Indian Territory.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
- Q Along about 1871 or '72 were you ever summoned or called before the Supreme Court of the Cherokee Nation, commonly known as the Daniels Court? A Yes sir.
- Q What was your father's name? A Sam Webber too.
- Q Was he down before that Court? A Yes sir.
- Q At the time that you went there were any other people on the road that went? A There was quite a number that went.
- Q Was that Court then investigating any freedmen citizenship cases then? A Yes sir.
- Q Where was that held? A Tahlequah.
- Q Now when you got to Tahlequah or when you were summoned tell if, you can what took place and what disposition, if you knew, was made of any of those cases and what happened. A Why they put five of us on the roll.
- Q Who were they, do you? A My father and my oldest brother, Johnson Webber, Harry Still myself and Charlie Campbell.

- Q You started to say something about not being summoned?
A Why we seed a piece in the newspaper printed there at Tahlequah telling us all to come before the Daniels Court and they would enroll us.
- Q Well did you go and how did you go? A Why we went horse back; There was some wagons along in the crowd, but the majority was horse back.
- Q Do you know whether or not that crowd of people that lived over on Grand River around Simon Lynch's and those people were down there? A Yes sir.
- Q Now when you got through those five persons you just named including your father, and yourself and your brother, were those cases tried? A Yes sir.
- Q Submitted testimony in them? A Yes sir.
- Q And you were enrolled? A Yes sir.
- Q What, if any, disposition was done with that other bunch of people? A Why they said the Court wasn't particular for the freedmen but said they would set a Court and notify them to come there afterwards, and told them to go home and go to work.
- Q Who told them that? A Judge Bob Daniels.
- Q Was the Judge of that Court? A Yes sir.
- Q He was the Court himself, was he? A Yes sir.

BY MR. HASTINGS:

- Q You knew Bob Daniels himself? A I knew him.
- Q You say there wasn't but five admitted by that Court?
A Just five.
- Q You swear that? A Of course I was right there and that was all.
- Q And you swear no other freedmen were admitted? A That is all.

BY MR. PATTEN:

- Q That is while you were there? A Yes sir, just while I was there.

BY MR. HASTINGS:

- Q Was there any other freedmen enrolled in 1871 by this Bob Daniels Court? A If there was I never seen them; of course we went away when we got through.
- Q Other freedmen were in there having their cases heard? A They all went with us.
- Q No other freedmen were ever admitted by that Court except the five you mentioned? A That is all I know of.
- Q Now mention them again? A My father Sam Webber, Johnson Webber, Sam Webber again, that is me, Charlie Campbell and Harry Still.

- Q You are the Sam Webber that has been testifying in so many freedmen cases, aren't you? A Yes sir.
- Q Are you the same Sam Webber who testified for Beckey Webber? A Yes sir.
- Q Whose postoffice is Ruby, I. T.? A Yes sir.
- Q Are you the same Sam Webber who testified for George Ward, D 425? A Yes sir.
- Q Are you the same Sam Webber who testified for Harriet Daniels, D 437? A Yes sir.
- Q Are you the same Sam Webber who testified for Wilson Towers, D 466? A Yes sir.
- Q Are you the same Sam Webber who testified for William H. Ruffington, D 565? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Catherine Ward, D 562? A It was Catherine Whitmire, then Catherine Ward, now that is the same one.
- Q Are you the same Sam Webber that testified in the case of Abraham Ward, D 607? A Yes sir.
- Q Are you the same Sam Webber that testified in the case of Malinda Webber D 609? A Yes sir.
- Q Are you the same Sam Webber that testified in the case of Eliza Starr D 620? A Yes sir.
- Q Are you the same Sam Webber that testified in the case of Amanda Hill, D 625? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Frances Anderson, F D 627? A Yes sir.
- Q Are you the same Sam Webber that testified in the case of Santa Anna Nivens, D 602? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Jack Starr, D 443? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of David Ross, D 799? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Mariah Reynolds, D 802? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Susie Lowe, D 824? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Martha Phillips, D 852? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Rebecca Webber, D 853? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Elizabeth Duncan, D 871? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Jefferson Ross D 872? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Elizabeth Tinnon, D 892? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Richard Towers, D 955? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Andy Webber, D 989? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Nicholas Landru, D 1008? A Yes sir.

- Q Are you the same Sam Webber who testified in the case of George Tucker, D 1013? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Amanda Brown, D 1015? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Carrie Jones, D 1023? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Betsey Reed, D 1093? A Yes sir.
- Q Are you the same Sam Webber who testified in the case of Bertha Glass, D 1099? A Yes sir.

MR. HASTINGS:

The representative of the Cherokee Nation desires to refer to these cases as being cases rejected by the Commission to the Five Civilized Tribes, the rejection of which has been affirmed by the Secretary of the Interior.

MR. STARR:

Comes now the applicants and move to strike out the questions and answers relative to the cases in which the witness has testified for the reason that testimony which the witness has given in each particular case is not shown to be on a material point in the case and for the further reason that the cases named are in instances consolidated cases where the witness testified in one case and his testimony,--copies of his testimony were put in the others, which would make it appear in the record that he testified in each particular case.

MR. HASTINGS:

The statement made by the Attorneys for the applicants will not have that effect for the reason that we now only ask them to be referred to and the Commissioner to the Five Civilized Tribes can notice and see whether or not the applicant has testified on a material point, and whether or not it is a consolidated case, but it certainly will be of value in weighing the testimony of this witness to have the Commissioner to the Five Civilized Tribes know and to have the Department know that this witness acknowledges that he has testified in twenty-nine cases which we have cited, of which all have been rejected by the Commission to the Five Civilized Tribes and this rejection affirmed.

MR. STARR:

The Attorneys for applicants deny that all of these applicants in the cases named have been rejected by the Commission and affirmed by the Department.

MR. HASTINGS:

If the Attorney will specify any single case that has been called let him do so now.

MR. STARR:

The case of Andy Webber is one of them that we call to mind.

MR. HASTINGS:

I desire to now enter a correction in the one case referred to, Andy Webber, which has been remanded since the notation was made, and I assert that the other twenty-eight cases do show that they have been rejected, and that that rejection has been affirmed.

ON BEHALF OF THE COMMISSIONER:

The motion of the Attorneys for the applicants, and the answer of the representative of the Cherokee Nation, will be noted.

(Witness excused).

WILLIAM HUDSON, being first duly sworn by B. P. Rasmus, a Notary Public, testified as follows on behalf of Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A William Hudson.
- Q What is your postoffice? A Fort Gibson, Indian Territory.
- Q Is your wife a Cherokee Freedman? A Yes sir.
- Q You didn't belong to the Cherokees before the war? A Yes sir.
- Q When did you marry your wife? A 22nd day of May, '67.
- Q And have you lived in and about Fort Gibson ever since?
A Ever since, never left the town.
- Q Do you remember the Bob Daniels Court when it was held at Tahlequah in 1871? A Yes sir.
- Q Were you in attendance before that Court? A I was.
- Q Did you make any application at that time to be admitted as a freedman citizen by intermarriage? A I did.

- Q Was your case heard? A Yes sir.
- Q Were there other freedmen there at that time applying? A Yes sir.
- Q Were they having a regular trial before the Court? A Yes sir.
- Q Did you ever hear of any of them being sent away from there and their cases not tried and wanted to try? A Not while I was there. They were all heard and we come home together; there was 10 or 12 of us together and we had to wait when one went through until the others got through and all come back to Gibson together.
- Q Quite a number went up? A Yes sir, at the time.
- Q And everybody that wanted to be heard got a hearing? A Yes sir, I got mine and I had to wait until some of the others got through; I was there three days, people waiting on the others.
- Q They took testimony did they? A Yes sir.
- Q And did you hear of any crowd of freedmen at that time being sent away from there without a hearing? A Not while I was there.

BY MR. PATTEN:

- Q What did you say your name was? A William Henry Hudson.
- Q You are not a freedman, yourself? A No sir, I married according to the laws of the Cherokee Nation.
- Q Where were you living in 1867? A Fort Gibson.
- Q You say there was a little crowd went down there from Fort Gibson? A Yes sir.
- Q You had your cases tried? A Yes sir, they called it the Citizenship Court of the Cherokee Nation.
- Q And about how many were in that crowd? A There was 10 or 12 as well as I recollect and they are all dead but one man and he is over at Gibson now.
- Q When was it you went down before that Court? A In '71.
- Q That little crowd from Fort Gibson, they had their cases tried before the Court? A Yes sir.
- Q Do you know whether or not part of them were admitted, were they? A Some were admitted and some wasn't; I know of two or three families admitted and I wasn't, and on the ground I wasn't admitted was because I was intermarried and others were citizens come in too late and they tried them all.
- Q Where had you lived before that time, before 1867? A I was in the army.
- Q Had you lived in the Cherokee Nation before the war? A No sir.
- Q How long did you continue to live in Fort Gibson after 1871? A I have been there ever since.
- Q Did you live in Fort Gibson from 1867 to 1871? A From the first day of March, '66, until now; I haven't been anywhere else only out a little while at a time like I am here.
- Q This was at Tahlequah, wasn't it? A Yes sir.
- Q How long were you there at Tahlequah? A About three days waiting for the parties that I went there to get a hearing from the Cherokee Court.

- Q You were in Tahlequah then about three days at that time?
A No sir.
- Q You dont know what happened before you went? to Tahlequah?
A No sir, not before or since but at that time we got a hearing and I employed an Attorney to attend to my business after I left there, W. F. Boudinot, a old lawyer and I left my papers and everything with him.
- Q You had your case properly attended to and was represented by an Attorney? A Yes sir, that is after I left there.
- Q After you left the Court, then you left it in the hands of an Attorney? A Yes sir.
- Q Are you very generally acquainted over the Cherokee Nation?
A Yes sir, I know pretty much everybody, I was there directly after the war and most of the colored people and everybody else went there for living things, and the Government had an army there and people went there for protection. You can find most every colored citizen and white citizens directly after the war they knowed something about Fort Gibson.
- Q If a crowd of people like that crowd was, a large crowd, went before that Daniels Court in 1871 or 1872 in order to have their rights investigated, if it went there before you did or after you did and the Court told them they were not trying those cases you couldn't swear that that wasn't true? A I couldn't say anything like that only what I saw myself; they heard me and others; I was there three days waiting for the crowd so we could all go home together.

(Witness excused).

MR. HASTINGS:

Now along this same line the Cherokee Nation offers to accept the testimony of Jerry Fields, the witness whose name is placed upon the list of witnesses furnished by the Attorneys on behalf of the applicants, who testified as to this Court and the proceedings before it in the Andy Butler case and who was introduced by the same Attorneys for the applicants as are representing these applicants now and examined by them and cross-examined by me on behalf of the Cherokee Nation.

MR. PATTEN:

In reply the Attorneys for applicants would respectfully say that while they appreciate the offer of the representative of the Cherokee Nation, yet we have always contended before this Commission that it is improper practice to take a record from another case and put into the case at bar when the witness is alive and able to be produced at this trial, and for that reason considering it is improper, if we desire the testimony of Jerry Fields we would certainly follow the practice that we have attempted to insist upon before this Commission and introduce Jerry Fields in person, and therefore decline the offer.

MR. HASTINGS:

In view of the fact that he was introduced by these same Attorneys for these applicants, and examined by them, and in view of the fact that the applicants gave this same man as a witness in this case, and in view of the fact that we now specifically waive the right to not have him present and permit the testimony to be introduced, we now offer it in evidence in this case.

MR. PATTEN:

In reply the Attorneys for applicants object to that testimony being put in this case; we submit that that is highly improper, but if the Attorney for the Cherokee Nation has no objection we will introduce Jerry Fields as a witness in this case on the next hearing of this case in person; we consider that the proper manner of conducting a trial; we have insisted that the Attorney for the Cherokee Nation confine himself to this line of trying these cases, and therefore do not want to break our own line of procedure.

MR. HASTINGS:

In reply we will say that the Attorneys on one side and the Attorneys on the other have already had this witness upon the stand upon this particular line of inquiry and was examined and cross-examined and his testimony is here now as a matter of record upon this particular point, namely, the proceedings before the Daniels Court in 1871.

MR. PATTEN:

In reply the Attorneys for applicants would respectfully call attention to the fact that this witness testified in the Andy Webber case as to the admission of Johnson Webber by the Daniels Court in 1871, and at that time we are of the opinion that objections were raised by the Attorneys for the Cherokee Nation as to him entering into any elaborate discussion of other sections of that Court other than in regard to Johnson Webber, and for that reason we would consider his testimony incomplete and would further say that if we are allowed to introduce Jerry Fields as a witness in this case at its next hearing the Attorney for the Cherokee Nation has access to Jerry Field's testimony as he testified in the Andy Webber case and may use that on cross-examination, of course, if he so desires.

ON BEHALF OF THE COMMISSIONER:

The motion made by the Attorney for the Cherokee Nation and the objections made by Attorneys for applicants, will be noted.

OGE BENGGE, being first duly sworn by B.P. Ramms, a Notary Public, testified as follows on behalf of Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Oge Bengge.
- Q How old are you? A 55.
- Q What is your postoffice? A Adair, Indian Territory.
- Q What was your father's name? A Anderson Bengge.
- Q Where did you live during the war? A We lived there at the mouth of Spavinaw until the spring of 1867.
- Q Then where did you move? A We moved from there up about a mile to the foot of two hills, the edge of Lynch Prairie.
- Q Did you ever see Stephen Henry Lynch? A Yes sir, first time I remember of seeing him was in the fall or winter of '67.
- Q. What was the occasion of your seeing him and knowing him then?
A Well father had a claim out on the prairie and he jumped it or tried to jump it, or something, and they had a few words about it, and I was with him when this conversation took place about the claim.
- Q And that was in the fall or winter of 1867? A Yes sir.
- Q How why do you remember it was that time? A Well father died in the spring of 1868 or winter of '68, January, 1868, it was.
- Q Well did Stephen Henry Lynch afterwards settle elsewhere there in that community? A Yes sir, he settled about a mile and a half or two miles northwest of that place.
- Q Had he settled over there before that? A No sir, I don't think he did.
- Q Did he build over at this other place? A Yes sir.
- Q Did he finally live over there at the other place he settled? A Yes sir, he lived there until he died.
- Q Do you know by what name this other place over there was called?
A No sir, I don't, I don't remember.
- Q But he built a house over there did he? A Yes sir.
- Q And that was after you and your father had seen him out there?
A Yes sir, out on the prairie there.
- Q Had you ever seen Stephen Henry Lynch there before that? A No sir, that was the first time I seen him.
- Q Do you know where he come from then? A Why my understanding was he just come in from Kansas.
- Q You hadn't seen him before? A No sir, that was the first time I ever saw him.
- Q Did you ever know him attempting to locate near the claim before this over there? A No sir, I don't.

BY MR. PATTEN:

- Q How old did you say you were? A 55.

- Q Where was it you lived until the spring of 1867? A Down there on Spavinaw near the mouth of Spavinaw.
- Q You say it was in the fall of 1867 that he jumped this claim of your father's? A Yes sir, November or December.
- Q Did you know him before the war? A No sir, I don't remember that I do.
- Q You were a small boy before the war, were you not? A I was born in 1851.
- Q You were about 11 years old when the war broke out? A Yes sir.
- Q When did you first get acquainted with him? A Well the first time I ever saw him and I saw him frequently after that, he lived over there on the prairie.
- Q In 1866, or '64 or '65, those years, Stephen Henry Lynch was a stranger to you then, you would not have known him, who he was, if you met him? A No sir.
- Q You would not have known who he was if you had met him until after that little trouble about the place, would you? A No sir.
- Q Did your father succeed in making him get off of that claim? A Yes sir, he got off.
- Q What was your father's name? A Anders on Benge.
- Q From the time that you first knew him then in the fall of 1867, continuously after that he remained a resident in and about that country in the Cherokee Nation so far as you know, didn't he? A Yes sir, he lived over there where he improved a place.
- Q Are you a Cherokee by blood? A Yes sir.

(Witness excused).

JIM RENGE, being first duly sworn by B. P. Rasmus, a Notary Public, testified as follows on behalf of Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Jim Benge.
- Q How old are you? A I was born in 1849.
- Q What is your postoffice? A Lynch, Indian Territory.
- Q What was your father's name? A Anderson Benge.
- Q Are you a brother of Oce Benge, who left the stand just now? A Yes sir.
- Q Did you know Stephen Henry Lynch, a colored man? A Yes sir.
- Q He is the step-father of Jesse Vann, the applicant here? A Yes sir.
- Q Do you remember when your father died? A Yes sir.
- Q About when did he die? A He died in 1868, January 1868.
- Q Do you know whether your father and Stephen Henry Lynch had a difficulty about a claim? A I heard of the circumstance, yes sir.

- Q Were you at home at the time? A Yes sir.
Q And you knew of the circumstance? A Yes sir.
Q You know whether your father went over to see him about it or not? A I think he did.
Q You didn't go in person with him? A No sir, I didn't go.
Q Did you hear of it at the time? A Heard it a bit afterwards.
Q Well where did Stephen Henry Lynch then locate after leaving that claim? A He went across the prairie about a mile and a half north.
Q Had he located up there before that? A No sir, I think not.
Q But he located up there after that? A Yes sir.
Q Did he continue to live there until he died? A Yes sir.
Q How had you ever seen or heard of Stephen Henry Lynch being there in that country before your father and him had this difficulty about this claim? A No sir.
Q That is the first you heard of him? A Yes sir.
Q Now about when was that? A When they had the difficulty?
Q Yes? A I guess it must have been in the fall of 1867
Q You say you were born in 1849? A Yes sir.
Q And Anderson Bengé is your father? A Yes sir.

BY MR. PATTEN:

- Q Where did you live in 1866? A I lived there on Grand River on Lynch's Prairie.
Q Lived with your father, did you? A Yes sir.
Q Well were you ever acquainted with this Stephen Lynch before the war? A Not that I remember of.
Q When did you first get personally acquainted with him? A I never got acquainted with him until he moved to this place where he lived when he died.
Q About what time was it in 1868 or '69? A In 1868.
Q You didn't see him then at the time you heard they had this trouble? A No sir, I didn't see him.
Q Where were you? A I guess I was at home or in the neighborhood there.
Q When did you hear, yourself? A Right away after it happened.
Q What kind of trouble was it? A Old man Steve taken my father's claim there on the prairie.
Q All you knew about it is what you heard? A Yes sir.
Q Then it was alone in 1868 before you ever got acquainted with him yourself? A I guess it was.
Q Did you get acquainted with him the first time you saw him?
A No sir, not as I remember of.
Q Do you remember the first time you saw him? A I saw him there on that place the first time I saw him.
Q Was that when you first got acquainted with him? A The first I remember of seeing him.
Q And that was in 1868? A Yes sir.
Q If this little trouble hadn't arisen you probably would not have known of him until 1868? A I don't know, we were neighbors, two or three miles apart; I expect I would have seen him.

- Q Do you know when he first came back to the Cherokee Nation after the war? A No sir, I don't.
- Q You are a Cherokee by blood? A Yes sir.

BY MR. HASTINGS:

- Q You never heard of him being there before the fall of 1867?
- A No sir.

(Witness excused).

ON BEHALF OF THE COMMISSIONER:

It is agreed by the Attorneys for the applicants and the Attorney for the Cherokee Nation that this case be continued until Monday, at 1:30 P. M., January 14, 1907, for the purpose of giving the Attorneys for applicants occasion to introduce the testimony of Jackson Davis and Arthur Bean, the Attorney for the Cherokee Nation reserving the right to introduce such testimony as he may desire.

JANUARY 14, 1907

In pursuance of continuance above noted, this case being called for further hearing on this day, January 14, 1907, at 1:30 P. M., the following proceedings were had:

JACK DAVIS, being first duly sworn by B. P. Ramsus, a Notary Public, testified as follows on behalf of applicants:

BY MR. PATTEN:

- Q What is your name? A Jack Davis.
- Q How old are you? A 79.
- Q What is your postoffice? A Adair, Indian Territory.
- Q Are you a doubtful freedmen citizen of the Cherokee Nation?
- A That is what they counts me; Hastings counts me that; I have been in here before he was born too.
- Q Do you remember the occasion when a great number of the Cherokee Freedmen were summoned or called before what was known as the Davis's Court, the Supreme Court of the Cherokee Nation about 1871? A Yes sir, I was one of the men that went there.

- Q Did that colony or bunch of people who lived in your neighborhood on Grand River go down there, or were summoned down there?
A All of them were summoned.
- Q Name, if you can, a few that went down in that crowd? A Well they are most all dead without myself. There was Mayfield, George Lynch, Nelson Martin, Jeff Lyons, all those are most dead now; I have outstripped them all.
- Q Do you know whether Stephen Lynch was in that crowd? A Yes sir, he was right with us.
- Q Where was that held? A At Tahlequah, right in the Council yard.
- Q Did Stephen Lynch and Mayfield and you and most of these people whom you have named live in the same neighborhood? A All pretty much in the same neighborhood right up and down the River there.
- Q You all went over together, did you? A Yes sir.
- Q Now, what, if anything, was done in the nature of trying or disposing of these citizenship cases when you were over there?
A There was nothing that I saw was done only old Bob Daniels, I was well acquainted with him, he told us to go home that he had no use for us and said if he needed us he would call us.
- Q Was Bob Daniels, Judge of that Court? A Yes sir, and old Johnson Foreman, I don't know what he was, something, he was right there but he seemed to be superintendent of something.
- Q All that crowd of people go home upon the advice of the Court?
A Yes sir, we went home; I went myself back to Grand River from Tahlequah.
- Q So far as that crowd of people that Stephen Lynch was a party, that was all that was done toward their citizenship cases?
A That was all done that I saw; we went back without knowing any more than we did before we went there.
- Q Did Bob Daniels, did he live in that same community or near where this bunch of people lived there on Grand River? A He lived about ten miles up the big road above us, right on the Military Road.
- Q Bob Daniels was a Cherokee citizen? A Yes sir, he was a Cherokee.
- Q He was pretty generally acquainted with the most of this crowd of people that came from Grand River? A Yes sir.

BY MR. HASTINGS:

- Q How far did he live from the old Lynch place? A About ten miles, I reckon.
- Q You were a slave before the war? A I was a slave.
- Q You have been an applicant for citizenship, to be enrolled as a freedman before this Commission? A Yes sir.
- Q You so far have been rejected? A Yes sir.
- Q Do you know whether or not they were trying any freedman cases down there? A Where?
- Q At Tahlequah, before the Bob Daniels Court? A I didn't see any tried while I was there.

- Q What time of the year do you think you were there? A Lets see, I can't hardly tell you what time.
- Q Well was it as late as March? A I don't hardly think it was, February or March one I believe; we never kept no record or nothing of the time at that time but I think it was either spring of the year or in the latter part of the winter sometime.
- Q Well is that your best judgment now that it was last of February or first of March? A Well, lets see, when was the Court, what year was it that he held the Court?
- Q I am asking you know, irregardless of what year it was, about what time of the year it was you were down there? A I don't remember just what time of the year but it appears to me it was spring or fall, spring it appears like it was; I know we were not farming at that time we went down there; it was either the first of the spring or latter part of the winter.
- Q That was the time you were down there, either the first part of the year or last part of the year? A I disremember about the time; I could have found it before I left home, what time of the year we were down there, but I didn't do it. XX
- Q You have got no recollection about that at all? A No sir, I don't remember.
- Q Except you know you were not farming? A I don't think we were farming when he called us.
- Q Did Bob Daniels know you before the war? A I knowed his wife, I don't know whether he knowed me or not.
- Q How far did you settle from Bob Daniels after you come back after the war? A About ten miles; he was north of me.
- Q Lived on the Military Road? A Yes sir.
- Q Well there was a good many freedmen being admitted when you were down there, weren't they? A I can't recollect anybody; when the papers come out we didn't get any hearing at all, and I don't recollect of a man but Simon.
- Q Simon Lynch? A Yes sir, said he was admitted and outside of him I don't know of another.
- Q Wasn't Anderson, or Crap Lynch, wasn't he admitted? A I don't recollect of him being that way, but I think he was.
- Q Well wasn't Art Williams? A I think he was; we didn't know what was done until it came out in the papers afterwards.
- Q Well in Simon's case, he introduced some testimony to show when he come back? A I reckon he did; I never saw it.
- Q And in Anderson Lynch's case, he introduced some testimony too? A I never heard a case.
- Q You never heard any of the cases? A None at all.
- Q You were not in the Court room when they were trying them? A No sir.
- Q But these colored people did go up in the Court room? A I suppose they did, I didn't go.
- Q You don't know of course, now 36 years afterwards whether or not Stephen Henry Lynch went up, you don't recollect that? A No sir, I don't; but I knew this much he come off with the crowd when we all come.
- Q Well Simon come with the crowd too? A Yes sir, he come off with the crowd too.

- Q Did Art Williams come back with the crowd? A Yes sir, I think he did.
- Q Then everybody went back, admitted or not admitted? A Told us to go home without being admitted; never give us any chance for a trial; said go home, when I want you I will call you, that is what he said to me, I understand English some of it, and that is what he said to me.
- Q That is what he said to you? A Said to the crowd.
- Q Was Simon Lynch in the crowd. He was there.
- Q Are Williams in the crowd? A Yes sir, Art was there.
- Q Was Anderson Lynch there? A I don't remember about him; there was about 300 of us there all together.
- Q Well were the Webbers there? A Old man webber was there, old Same's dady.
- Q Was he there? A Yes sir.
- Q Did he go off when you went back? A No sir, left him there; Webber lived on Big Creek and we lived on Grand River
- Q You don't know how many of them were admitted when you left?
- A No sir, I didn't
- Q But a good many of those that did go back with you did go up in the Court room and give testimony? A I don't know who they were; when the papers come out there was nobody admitted that we heard of but Simon, he was one of them they claimed that was right, and the balance was on the tee late list.
- Q That wasn't the question, part went up and give testimony and part didn't? A Might have, I don't know about that.
- Q You dont know whether Stephen Henry Lynch went up and give testimony or not? A No sir, I know he didn't, because he come back with us.
- Q Didn't Simon go back with you? A Yes sir, he did.
- Q Are you satisfied he didn't because he come back with you?
- A I dont know, I wasn't then in the Court room; they didn't hear any trial.
- Q Is that the only reason you have of being satisfied Stephen Henry Lynch didn't because he come back with you? A Well he come,-- I stayed out there about three miles to my mother-in-law's, I wasn't there all the time.
- Q What was your mother-in-law's name? A Betay Whitnair.
- Q So you stayed out there part of the time? A Yes sir, there is where I ate and slept.
- Q You were not in town all the time? A No sir.
- Q So they might have been before the Court while you were not there? A They might have, I didn't know it if they did.
- Q Is that Betay Whitnair living now? A No sir, she id dead.
- Q Which direction from town did she live? A east.
- Q Any kin to Lewis Whitnair's wife? A I dont know, I dont think she is.
- Q Stephen Henry Lynch didn't stay out there with you? A No sir.
- Q He stayed in town? A Yes sir, you see that was my wife's mother, and my people was out there and that is the reason we went out there.
- Q How long did you stay down there at that time? A A week.

- Q Now aint you got no recollection at all about what time of the year it was? A I dont know, I think it was in the fall though
- Q You think it was fall? A I think it was fall or winter or something.
- Q I am satisfied it is something, but that is what I am trying to get from you, your best judgment as to when it was? A I dont recollect just exactly what time it was now; along in the fall or winter or something.
- Q Do you know what year it was? A I think it was '71, I think.
- Q Now couldn't it have been in 1870 or in '72? A '70 or '71 or '72,-- '71 I believe it was, I dont know just exactly which.
- Q You are not right positive what year it was? A No sir, I wasn't because I dont keep no records or nothing of the kind; but I think that Daniels Court was in '71.
- Q Where were they holding Court, in the Capitol? A Yes sir.
- Q Up stairs? A Yes sir.
- Q And you never went up stairs at all? A No sir, I never went up.
- Q And you never went in the Court room? A No sir, we had no use to go in there because they didn't call us any.
- Q You mean to say they didn't call you in? A No sir, they didn't call me.
- Q That is all you are going to testify about they didn't call you in? A Yes sir.
- Q You aint going to sit here and say 35 years afterwards that of all these people down there you can recollect whether they called this one in or not or another one, you are just going to testify they didn't call you in? A Ye sir, they never called any of our crowd in without it was Simon Lynch or Art Williams; I knew the whole River was on the doubtful list; I am on it.
- Q You have been on it ever since haven't you? A Yes sir, I have always been on it.

(Witness excused).

ARTHUR BEAN, being first duly sworn by B. P. Rasmus, a Notary Public, testified as follows on behalf of applicants:

BY MR. PATTEN:

- Q State your name? A Arthur Bean.
- Q How old are you? A About 64.
- Q What is your postoffice? A Chaffee, Indian Territory.
- Q Are you a recognized freedman citizen of the Cherokee Nation? A Yes sir.
- Q Did you know a colored man by the name of Stephen Henry Lynch before the war? A Yes sir.

- Q Did you know any of his family, Arthur? A Yes sir, I knowed his wife.
- Q What was her name? A Peggie.
- Q Did you know any of his boys? A Jesse and Bill, I knowed the whole family.
- Q Did you go out of the Nation during the war? A Yes sir.
- Q Where did you go? A To Kansas.
- Q When did you return after the war? A In '66.
- Q What time in 1866? A Along in the fall.
- Q When was the first time that you remember that you saw Stephen Lynch in the Cherokee Nation after the war? A The first time I see him?
- Q Yes? A Down in the Nation here?
- Q Yes, when was the first time you remember of seeing him in the Nation after the war? A In the fall of '66.
- Q Where did you see him? A He was over there at Simon's.
- Q Well how long was that after you had come back yourself?
- Q A I guess that was about a month probably.
- Q Well did he have his family with him when you saw him that time?
- Q A No sir, not the first time.
- Q How did he come down? A Horse back I suppose.
- Q You dont know that? A No sir.
- Q Do you know whether he afterwards moved his family down here or not? A Yes sir, he moved his family.
- Q When if you remember did he move his family? A I guess somewhere along about Christmas.
- Q Was it in the winter time? A Yes sir.
- Q Was that the same year? A Yes sir.
- Q What year was that? A That was in '66.
- Q Now take the following summer after a great many of these freedmen came down here, along in the summer of '67, what was the condition of times? A Times were pretty reckless here that time.
- Q Was it difficult to get make a living, to get something to eat?
- Q A Yes sir.
- Q Do you know whether or not any of these freedmen ever went back to the States during that summer from where they came?
- Q A No sir, not very many.
- Q Did some of them go back? A Yes sir.
- Q After Stephen Lynch moved his family down here, as you stated, do you know whether or not he went back, or do you know?
- Q A Steve?
- Q Yes? A I think he did go back during that spring sometime, or latter part of the winter.
- Q Where did you live at that time? A In '66?
- Q Yes? A I lived there with Art Williams.
- Q Well do you know whether or not any time during that fall or winter, whether or not Steve laid him a claim or got him a place or bought him a place? A Yes sir, he got a place down there.
- Q Well, where was that? A Right below, I forget the name of the old place, but down below the Island Ford, in there.
- Q Was that in the neighborhood of where Simon Lynch lived? A Yes sir, I guess about two or three miles from Simon.

- Q Do you know whether he got that on the first trip he was down here? A Yes sir.
- Q Do you know whether or not he continued to hold that place until the time of his death? A Yes sir, it was his until he died.
- Q Where did he die? A On the same place, right there.
- Q How long has he been dead, do you know? A No sir, it has been 25 years or longer I guess.
- Q A long time? A Yes sir, I guess so; it has been a long time, I can't remember just how long.
- Q Do you remember the occasion when a great number of freedmen were summoned or did go before the Daniels Court, what was then the Supreme Court of the Cherokee Nation about 1870 or '71? A Yes sir.
- Q Did you go? A Yes sir.
- Q Do you know whether or not that colony or bunch of people from that neighborhood on Grand River went? A Yes sir, I know a whole lot of us went; I guess 75 or more went down there.
- Q From that country? A Yes sir.
- Q Did you go together in a bunch? A Yes sir.
- Q Can you name some of the people that were in that crowd? A The whole neighborhood was in the crowd up there.
- Q Was Mayfield? A Yes sir, the whole neighborhood. I couldn't call them all over, but the neighborhood went down there.
- Q Can you name some of them? A Mayfield and Uncle Steve.
- Q Steve who? A Steve Lynch, Art Williams, Art Lynch, George Johnson, and Tobe, Jack, George, oh there was quite a crowd full of us went down there.
- Q What if anything was done there toward the disposition of these citizenship matters so far as that crowd of people that came from Grand River was concerned? A We went down there and the Judge told us we didn't have any use for you people, for you people to go back home, and make more corn up there, then we went home and stayed there quite awhile.
- Q You mean when he told us, who did you mean? A That bunch of people down there.
- Q That bunch that came from your neighborhood? A Yes sir, told us to go back home and make your farms larger and make more corn he said he knew all of us and that we were all right.
- Q Was Simon Lynch along? A Yes sir.
- Q Was Art Williams? A Yes sir.
- Q Did you go back home after he told you that? A Yes sir.
- Q Did you go back together? A Yes sir.

BY MR. HASTINGS:

- Q Were you a slave before the war? A Yes sir.
- Q Can you read and write? A No sir.
- Q Never could read nor write? A No sir.
- Q How old are you now? A I am about 64 years old.
- Q What was your father's name? A Sandy.
- Q Did you know the place that Stephen Henry Lynch died? A Yes sir.

- Q How far was that from his old master's, Joe Lynch's place? A About two miles.
- Q Did Steve build him a house out there at that place? A Yes sir.
- Q Well now where did he come back to when he first come back to the Cherokee Nation? When he brought his family? A To that same place and died there.
- Q And that is the place he went to, is it? A Yes sir.
- Q The place where he died? A Yes sir.
- Q He went direct to this place? A Yes sir, he worked around up there in different places.
- Q But he took his family right to this place? A Yes sir.
- Q And there is where he settled? A Yes sir.
- Q Are you married? A Yes sir.
- Q What year were you married in? A I don't know what year it was.
- Q What year is this one? A 1907. I think if I mistake not, along about '67 I guess when I married as well as I can think about it.
- Q Who did you marry? A Married Lou Vann, the girl was named.
- Q Where did you marry? A Down on Spring Creek.
- Q How many children you got? A Just got two living.
- Q When was the first one born? A I couldn't tell you.
- Q Got any dead? A All my children dead but two.
- Q When did the first one die? A I don't know just when it was; it has been over 30 years.
- Q Don't remember the year? A No sir; I never did put it down.
- Q No record? A No sir; you know we fellows couldn't do nothing, write or anything of that kind; I never think to have it written down.
- Q You never think about those dates that far back? A I couldn't do it, I don't know nothing about the dates and couldn't set it down; it just slipped my remembrance.
- Q You don't know then about the birth or deaths of none of them? A I know when two died, in '68, the time of the small pox.
- Q That is all you do know, that they did die in the time of the small pox? A I have got the year pretty well when them two died, but I don't know the date they died on.
- Q Who was living on the old Lynch place in the year 1866? A Old man Scraper.
- Q Old man George Scraper? A Yes sir.
- Q That was George Clark's father-in-law, wasn't he? A Yes sir.
- Q Then Stephen Lynch never did go back to that place after the war? A No sir, not as I know of.
- Q If he did you never saw him there? A No sir, only working there.
- Q How far were you living from the old Lynch place? A About a mile.
- Q What direction? A Southwest I guess.
- Q Who were you living with? A I lived with Art Lynch part of the time.
- Q When did you go back to Kansas? A No?
- Q Yes? A I didn't go back at all, no sir, not until '68 or '69, way up in there I went up in that country.
- Q You went back then? A Yes sir, didn't stay no time, just went up there and back.

- Q Where did you first see Steve's wife? A That was the first time I seen her was down here.
- Q When was that? A That was along in '66, I guess it was; just about that time.
- Q Well you don't know whether it was the spring or summer? A It was along in the winter I think, just before Christmas.
- Q How long before Christmas, can't you say any more definite than that? A I guess probably a month before Christmas..
- Q Where was she then? A She was over there with the old man.
- Q At their place where he settled? A Yes sir.
- Q Did they have a house there? A A little small house.
- Q They had built one there, had they? A Yes sir.
- Q You swear that? A Yes sir.
- Q Now how far was that from you? A That house?
- Q Yes from where you lived? A At that time I guess it was about, now let me see, about two miles I guess from where I was living at that time.
- Q Well how long did you continue to live there, two or three years? A Yes sir.
- Q Well they continued to live on this place from that time until his death? A Yes sir.
- Q And you saw them every few days? A Yes sir.
- Q You were ~~there~~ over there every few days from then until just before Christmas, 1946? A Yes sir.
- Q I mean up until the time of his death? A No sir, I didn't see him up until his death.
- Q Well how long did you continue to see him? A I think he lived there that winter, if I mistake not; it seems he went back to Kansas on some business or other and our women is kinder reckless; they wouldn't agree to stay unless the old man stayed and he had to go back.
- Q How long did they stay? A I guess they stayed during that summer and come back that fall sometime.
- Q I mean before they went back to Kansas? A They stayed there probably a month. Stayed there and got their claim and a new shanty put up.
- Q Just out on the public domain was it? A Yes sir, right close there, he got the place from Simon.
- Q Wasn't any house there? A No sir, we didn't put any house; we would just get four logs and make us a little cabin there, and sell them claims.
- Q How when did you next see Steve? A The next fall I seen Steve I guess probably; he went up and came back and he stayed down here until he died.
- Q You ever testify in this case before? A Never have, no sir.
- Q Well you made an affidavit to reopen the case of Jennie Martin, P.D. 197? A I might have.
- Q Did you in the Abbie Elythe case, D 257? A I don't know whether I did or not, I might have.
- Q Well do you know? A Yes sir, I believe I did make an affidavit to that effect up there at Vinita.
- Q Who for? A I believe it was Campbell if I mistake not.

- Q Did you make one in the Katie Thornton case, D 578? A I don't recollect making any for Katie.
- Q Well did you? A I might have, I don't recollect it.
- Q Well do you make these affidavits without remembering them or without knowing it? A I do but they slip my remembrance like other things.
- Q Did you make one in the Jim Landrum case, D 664? A Yes sir.
- Q Did you make one in the John Towers case, D 734? A I don't recollect.
- Q Do you remember him by the name of John Armstrong? A Yes sir.
- Q Did you make one in that case? A Yes sir.
- Q Did you make one in the Cynthia Ross case, D 792? A No sir, I don't remember that.
- Q Do you remember making one in the Jackson Fields case, F.D. 771? A No sir, I don't remember that.
- Q Well do you? A No sir, I didn't make none for Fields.
- Q Jackson Fields' father is named Andy and mother Chancy, you didn't make any affidavit in that case? A If I did I don't recollect making any.
- Q Did you make one in the Moss Riley case? A Yes sir.
- Q Did you make one in the Emma Purdie case? A No sir, I don't recollect making one in that case; they were all together.

MR. PATTEN:

The Attorney for applicants desire that it be stated to the witness who Emma Purdie is, perhaps he doesn't remember the connection.

- Q She is a sister of Moss Riley? A I don't recollect making any for Emma, I made one for Moss.
- Q What time of the year did you go to Tablequah? A Along in the fall.
- Q November or December? A I guess it must have been along about it might have been in September; it was after we got through cropping, after we laid your crops; I don't know just what month it was but I think it was in the fall when we went down there; I know it was in the fall because we went out on the branch and camped out there; there was 100 or more down there.
- Q Do you know what year it was you were down there? A No sir, I don't, it was along in,---I don't know just what year that was, but anyhow,---it has slipped my remembrance, I don't know what year it was.
- Q Did you know an old man by the name of William Lynch? A Yes sir.
- Q What kin was he to Steve? A Wasn't any; both just belonged to one man.
- Q Is he dead? A Yes sir.
- Q Was he down there with you at the time? A Yes sir, he was there all the time.
- Q Did he go up before this Court? A Yes sir, we all went down there.

- Q Was he ordered back at the same time? A Yes sir, we all came back at the same way.
- Q Was William Lynch, was he admitted? A I don't think there was any of them as I knew.
- Q Well was anybody admitted? A Yet as I knew of we all came back and didn't say whether we were admitted or not until after a certain length of time, then we knowed better.
- Q Did you know a fellow named Charles Nave? A Yes sir.
- Q Where did he live? A Down on the River.
- Q How far from you? A About 5 or 6 miles I guess from me.
- Q Did he come down in that crowd? A Yes sir.
- Q And was he ordered back home? A Yes sir; the judge said you all go back home, we haven't got any use for you people, he said we were all right anyhow.
- Q Did you know Delilah Varn? A No sir.
- Q Never knew her? A No sir.
- Q Did you know Butler McHair? A Yes sir, I knowed him before the war.
- Q Was he down there with you? A Yes sir, we were all in attendance, he lived below us though.
- Q And he was sent back home? A Yes sir, they all come back; I never heard of them trying any there at that time.
- Q Where were they holding that Court? A In the Capitol there at Tahlequah.
- Q Was it down stairs or up stairs or where? A I don't know, it was in the house; it must have been up stairs.
- Q You didn't go up there? A Yes sir, I was in the house, it was kinder of a curiosity for us.
- Q You were not in the room while they were trying these cases? A No sir, didn't try any where we were.
- Q Did you go in where they were trying cases? A No sir, I didn't go in the Court room.
- Q You were in the hall but didn't go in the Court room? A No sir, Judge Daniels, he come out and just told us to go home, we thought it was all right and just went home.
- Q And that was in the fall of the year, was it? A Yes sir, I think it was in the fall, I know it was.
- Q But you don't remember what year it was? A No sir, but it was warm and we camped out on the Creek.
- Q Well you don't know whether Stephen Henry Lynch went in the room where they were? A I don't think he did, though he might have; wasn't a colored man called while we were there.
- Q And wasn't a one admitted at that time? A Not as I heard of.
- Q Never heard of one? A No sir, I have got a pretty good recollection, after the Court adjourned we were notified through the papers we were all doubtful citizens, and that is all we did know; never did know anything else; we just stayed here all the time and tried to get our rights and Council would fail every time; we would try but didn't get any rights.
- Q Well referring back now to the Jackson Fields case, I will ask you if you ever testified in this case? A Never did, no sir.

- Q Well did you ever know him? A Yes sir, I knowed him.
- Q When did you first learn to know him? A I knowed Jack when he was quite a lad of a boy.
- Q About how long after the war? A I never seen Jack any more after the war for a long time.
- Q Well was it 10 or 12 years? A I guess it was; I don't know how long it was I did see Jack; I never made no affidavit or testified in Jack's case at all.
- Q You don't know when he returned to the Cherokee Nation? A No sir, I don't.
- Q How do you know Will Hudson ever here at Fort Gibson? A No sir, I might know him if I meet him.
- Q You don't know whether he was up there before that same Court at that time or not? A No sir, I didn't know any of those people at that time.
- Q Did you know Frank Vann who afterwards taught school up in there? A I got acquainted with him afterwards; he used to go around preaching among us; he was kinder of a school teacher and preacher.
- Q What is your postoffice anyhow? A It is either Chaffee or Vinita, either one; it used to be Vinita before Chaffee was established close to us.
- Q Were you living in Saline District about the time you were before the Daniels Court? A Yes sir.
- Q Was Simon Lynch down there at the time you went down there? A Yes sir, we all went together except the women folks and the few young boys.
- Q Was Sandy Bean your father? A Yes sir.
- Q Was he down there? A Yes sir.
- Q Well you know Rob Daniels well? A Yes sir, I knowed him before the war.
- Q You lived right there in the neighborhood? A Yes sir.
- Q He lived in that neighborhood near? A Yes sir, his folks and my folks were relation.
- Q He was regarded as a good man? A Yes sir, he was a good man; and when he told us to go home we taken his word for it and he was such a good fellow we put lots of confidence in him.
- Q He was always regarded as a good man? A Yes sir, and we put lots of confidence in the Judge at that time.
- Q Did you know Washington Have? A I knowed one Washington Have, a young fellow.
- Q Well old man Washington Have did he go with you when you were all down there? A I don't recollect him.
- Q Did you know Adam Lynch? A Yes sir.
- Q Was he down there? A Yes sir.

BY MR. PATTEN:

- Q You say that bunch was notified sometime after you were told to go home that you were rejected, or given notice about your case? A Didn't state we were rejected, just said we were doubtful citizens.

Q How were you notified, personally or through the papers? A People generally do it, we would elect men and send them to the Council and they just told us we were all doubtful citizens; that is all we got on the matter and we just taken that up until now and lots of us are now doubtful citizens.

MR. PATTEN:

That is all our testimony unless it becomes necessary to introduce some rebuttal testimony.

MR. HASTINGS:

In order to impeach the witness who just left the stand and to show the recklessness which he swears, I desire to introduce the affidavit made by said witness filed with the motion of Jackson Fields' to reopen his case, which is F B 771, and ask that the Commissioner to the Five Civilized Tribes refer and get the original from his own files.

MR. PATTEN:

The Attorneys for applicants have no objection to the request of the Attorney for the Cherokee Nation but ask leave that the witness be recalled and apprised more fully of the affidavit in order that he be given a more fully opportunity than he has had to recognize the affidavit; we know nothing whatever about this affidavit and think that this would be fair.

MR. HASTINGS:

He said that he didn't know anything about when Jackson Fields returned, but I have no objection to have him recalled.

ON BEHALF OF THE COMMISSIONER:

The witness will be recalled.

ARTHUR BEAN RECALLED:

BY MR. HASTINGS:

Q You are the same Arthur Bean that was on the stand awhile ago?

A Yes sir, the same boy.

Q You were asked at that time about whether or not you made an affidavit to support a motion to reopen the case of Jackson Fields? A Yes sir, I was asked that question.

- Q And you said you didn't make any affidavit? A No sir, if I did I don't recollect it; I don't remember making any testimony for Jack Fields at all.
- Q You don't remember anything about when he came back after the war? A No sir.
- Q You never saw him for a number of years after the war? A No sir, I didn't.
- Q Well was it 15 or 16 or 25? A I don't know how long it was.
- Q Well was it 10 or 15 years? A Yes sir, that is my best judgment. Q You already knew him? A Yes sir, I knew him before the war; he was a little boy and then I never got to see him for a long time; I was here until time of the war and I didn't see him.
- Q You didn't see him then for a number of years after the war? A No sir.
- Q Do you remember when you saw him then first after the war? A I believe down there at Joe Lynch's the first time.
- Q About how many years was that after the war? A I don't know just how many years that was.
- Q 10 or 15? A I guess it was probably, maybe not so long; it was quite awhile.
- Q Is that your best judgment? A Yes sir.
- Q Did you know his father and mother? A I knowed his father.
- Q What was his name? A Andy.
- Q You never knew his mother? A I don't think I did; I might have knowed her seem like she belonged to Oliver Bean; I wasn't acquainted with his mother like I was his father.
- Q You never saw them after the war, his father and mother? A No sir, I aint seen them not since way before the war; the time I recollect seeing them.
- Q Was before the war? A Yes sir, I don't recollect seeing them since; I didn't stay up where they was, I was off down here.
- Q And you never saw Jackson Fields in your best judgment for some 10 or 15 years after the war? A No sir.
- Q Now don't you know that you are the same Arthur Bean who, on September 14, 1906, appeared here in Muskogee before the Commissioner to the Five Civilized Tribes and testified in this case for Jackson Fields? A No sir, surely wasn't me.
- Q Is there another Arthur Bean up on Grand River? A No sir, there is not but one that I know of; if I made any statement for Jack I don't recollect it.
- Q I mean before the representative of the Commissioner like you are now? A Before the Commissioners here?
- Q Yes, here in Muskogee? A No sir, I never was on a case of Jack Fields.
- Q You said there was no other Arthur Bean? A No sir.
- Q You are about 64 now? A Yes sir.
- Q And you live up on Grand River? A Yes sir.

MR. HASTINGS:

Now I ask that the testimony of this witness, Arthur Bean, taken before the Commissioner on September 14, 1906,

in the supplemental proceedings had in the matter of the application for the enrollment of Jackson Fields, et al., as Cherokee Freedmen, original No. F B 771, now F B 452, be introduced and made a part of the record or so much thereof as will show the entire testimony of Arthur Bean.

MR. PATTEN:

We have no objection to the request of the Attorney for the Cherokee Nation.

ON BEHALF OF THE COMMISSIONER:

There being no objection, the testimony of Arthur Bean in the Jackson Fields case will be filed with and made a part of the record in this case.

BY MR. PATTEN:

Q Now this testimony introduced includes Mr. Hastings referred to in the Jackson Fields case, about which you have answered his question is something like this ----?

MR. HASTINGS:

I want to object to it for the reason that it would be leading if it were recited to him; I have no objection to the fact that he be apprised that he testified, and let the record so show.

ON BEHALF OF THE COMMISSIONER:

The objection will be noted.

Q I take it Mr. Rogers from Vinita was the Attorney in the case?
A I have never been before any Rogers as I know of.

Q Do you know Charles B. Rogers, an Attorney from Vinita? A No sir, I don't know him; I seen him several times but I don't remember making any affidavit for him.

Q Do you ever remember of testifying in the case/when he was the Attorney for the freedmen? A I don't know as he was ever an Attorney, I never was before Mr. Rogers under no consideration as I ever knows of; every one I made an affidavit for I can pretty near think about them when they are called over, but that is one I don't know about.

Q The affidavit that is purported to have been made by Arthur Bean, signed by mark, which was witnessed by J. V. Rateliff and O. A. Smith, of Vinita, was sworn to before J. V. Rateliff as Notary Public; I think that J. V. Rateliff is a son of the Rateliff that runs the store there? A Jim Rateliff is the only Rateliff I knew, the old man.

- Q Did you make an affidavit before them? A I don't remember of it; I never did make an affidavit in the Fields case as I know of.
- Q How old did you say you are? A 64.
- Q This affidavit about which Mr. Hastings has questioned you is as follows, that is a copy of it, which is purported to be a full copy: (Here is the affidavit which has been introduced in evidence was read to the witness). Do you remember making such an affidavit as that? A No sir, I don't recollect of making it; I don't remember of going before any Notary by the name of Bateliff.
- Q Do you know any Bateliff? A I know Jim.
- Q After you have heard this affidavit read you wholly fail to recognize it? A I don't recollect it at all; if I made it I don't know anything about it; I don't recollect of ever making any statements for Fields at all as I know of in no case; I don't recollect of making that affidavit for Jack Fields.
- Q What do you know about these Fields, about what you have told Mr. Hastings? A Yes sir.
- Q Do you remember of seeing them in January or February or March, 1867, irregardless of the affidavit? A Don't remember of seeing the old man Fields boys, Jack and them.
- Q You stated in the affidavit that it was these boys you saw? A If I made that affidavit, I don't know anything about it, that is all there is about it.
- Q Do you remember of seeing the boy Jack? A Not until after the war.
- Q Do you remember of seeing the boy before you saw the old folks, his father? A I aint seen his father since the war; I have seen Jack.
- Q You have seen the boy? A Yes sir, I seen the boy but not the old man at all.
- Q Jack is the boy, is he? A Yes sir.
- Q Well he is the one that reference is made to in the affidavit; there is nothing said in the affidavit when you saw the old man, it is purported to be stated about the boy? A I seen him later on after I came down here.
- Q How long after you came down here? A Quite awhile after I came down before I seen Jack; if I made any affidavit for Jack I don't recollect it at all; I know pretty much every one I made affidavit for; if I made it it has just slipped my remembrance.
- Q You have also evidently testified in this case; the records of the Commissioner to the Five Civilized Tribes show that you were the witness in this case for Jackson Fields, the boy? A I don't recollect of ever coming before the Commissioner for Jack Fields in my life; if I did, I don't know anything about it.
- Q You were asked this question; Q "When was it you saw him? (referring to the first time you saw Jackson Fields after the war) and the answer was "Along in '67 sometime." And the next question was, "Q What time of the year? A Along in the winter time. Q Can you name the month? A It was January or February, shortly after Christmas. Q Where was he living at that time? A I don't really know where he was. Q Was it in the neighborhood of where you live? A He was passing through. Q Did he have any fixed abode? A He said he was stopping with Joe Lynch.

- Q Who was Jackson's mother? A Chaney Ross. Q Did she return from Kansas? A I couldn't tell you. Q Have you known Jackson Fields since that time? A Yes sir, ever since then.
- Q Have you seen him frequently in the Cherokee Nation since January or February, 1867? A Yes sir, I have seen him frequently. Q Has he made that his home? A Yes sir, ever since I know him, he was a boy that passed in and out. Q Do you know whether his mother was dead at that time? A No sir, I don't.
- Q About how old was Jackson when you first saw him in the winter of 1867? A He was just a boy, pretty good size boy. Q You say positively that he was in the Cherokee Nation in the month of January or February, 1867? A Yes sir, he was here; I would not be positive until he married here. Q He married in the Cherokee Nation? A Yes sir. Q On Grand River? A Yes sir." Now that was the nature and practically the substance of that testimony as a witness in this case before Mr. Rogers as the Attorney for the applicants? A No sir, I don't recollect of ever making any testimony before the Commissioner for Fields.
- Q This was a year ago last September? A I might have come before the Commissioner, but I don't recollect about it. They kept a record of it I guess but I don't recollect of ever coming down here on the Fields case.
- Q You have heard me read the substance, practically a fair substance of what your testimony was? A Yes sir, I heard it.
- Q Now if you were on the stand would it be about that way? A Like it reads there?
- Q Yes? A I don't know, I couldn't tell you unless I could get it placed in my mind when it was; I can't recollect of ever making that statements; if I made it it has just slipped my remembrance; I don't know anything about it.

ON BEHALF OF THE COMMISSIONER:

- Q Irregardless of this testimony and the affidavit do you know anything about when Jackson Fields returned to the Cherokee Nation after the war? A No sir, it was quite awhile after I come down here before I seen Jack; I don't know how long it was, he might have been in different parts of the Nation.
- Q That was before you saw him? A Yes sir.

BY MR. PATTEN:

- Q You said something not knowing much of him until he married, how long after the war before he was married? A I couldn't tell you, I don't know how long.
- Q Was it a number of years? A Yes sir, quite a number of years.
- Q That was about the first time you remember of him here, about the first time he was married? A Yes sir, a year or two before he married.

- Q How big a boy was he when the war broke out? A Just about as high I would guess him, a little higher; I never seen him any more in the time of the war, I didn't stay in Kansas during the war.
- Q Then from the size he was when the war broke out it would be a number of years after the war before he was old enough to marry? A Yes sir, I was quite a young boy myself then.
- Q You were older than he was? A Yes sir, I guess I was; I couldn't just keep up with our peoples ages at that time.

(Witness excused).

LEMOUEL S. SANDERS, being first duly sworn by R.P. Ragans, a Notary Public, testified as follows on behalf of Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Lemuel S. Sanders.
- Q Your age? A I will be 78 the 10th of next May.
- Q What is your postoffice? A Stillwell, Indian Territory.
- Q You are a citizen of the Cherokee Nation? A Yes sir.
- Q By intermarriage? A Yes sir.
- Q When did you come to the Cherokee Nation? A My recollection is that I came in 1868 or 1869.
- Q Your wife a Cherokee? A Yes sir.
- Q Was she admitted by the Cherokee Authorities? A Yes sir.
- Q By Council or Court? A By Court.
- Q Who presided over the Court? A Judge Robert Daniels.
- Q Was she admitted by the Daniels Court? A Yes sir.
- Q Did you have any occasion to attend upon the session of that Court? A I was Attorney for several persons there.
- Q Have you been practicing law in the Cherokee country since? A I practiced ever since then.
- Q Do you know whether there was any colored people that were in attendance before that Court? A Yes sir, there was some in attendance.
- Q Do you know whether their cases were being heard? A There cases were heard, my recollection is, like all the others.
- Q Testimony taken in them? A Yes sir.
- Q You say you had occasion to be before the Court a number of times? A I had occasion to be there several times and remained there for a week or two.
- Q You say colored people was there during these visits? A Yes sir, I saw them in the Court room.
- Q Well did you ever know or hear of any of them being sent away without having their cases heard there? A Never heard of anything of that sort, until within the last three or four weeks, I have heard it was a rumor.

BY MR. PATTEN:

- Q You are a white man yourself, aren't you? A Yes sir.
- Q You say your wife was a Cherokee? A Yes sir.
- Q She was a Cherokee by blood? A Yes sir.
- Q She was admitted by that Court? A Yes sir, her name was Vian Raper.
- Q Where were you living at that time? A I was living in Flint District close to where I now live; four miles west of where Stillwell now is.
- Q Is that somewhere near Tahlequah? A About 20 miles south of Tahlequah.
- Q How far is that from Grand River? A I don't think I could give you the exact distance.
- Q Well at what time was your wife admitted by that Daniels Court, what year? A My recollection is that it was in 1871.
- Q You had only been in the Cherokee Nation at that time two or three or four years? A About that long.
- Q Where did you come from? A I came from Cherokee County, North Carolina.
- Q You were a stranger in this country when you came? A I was acquainted with several persons that came just before and just after I did; not personally acquainted with many.
- Q You were not acquainted with the country and the majority of the people in it? A No sir, I wasn't acquainted with a majority of the people in this country of course.
- Q At the time that Daniels Court was in session were you acquainted with that bunch of freedmen over there on Grand River? A No sir.
- Q How long were you in attendance at that Court, continuously? A I was in attendance sometimes a week or two weeks on different occasions, I believe I stayed there two weeks once; my cases were called from time to time.
- Q Well you were there you saw some freedmen cases tried? A I was in the Court room when freedmen cases were called and were tried during the time I stayed there.
- Q Were they trying Cherokee cases too? A Yes sir.
- Q They were trying Cherokees as well as freedmen? A Of course they were.
- Q Well did they try those freedmen cases, I mean the most of them in as fair and impartial a way as they did the Cherokee cases? A That would be a pretty hard question for me to answer; my recollection is they tried us all alike.
- Q They showed no difference between a freedman and Cherokee so far as they were concerned? A No sir.
- Q Do you know Mr. Starr here? A I have seen him.
- Q Did you ever have any communications with him about this case? A Yes sir.
- Q Mr. Starr wrote you a letter about this case and you answered it? A Yes sir, I think so.
- Q Isn't it a fact that you answered him and told him that the freedmen were not given as fair a chance as the Cherokees? A Mr. Starr wrote me a second time and I gave it further consideration about the matter; and further Mr. Starr or somebody else wrote

- me there was money up here for me when I come as a witness and I studied the matter over and decided it would be freedom money so I didn't come.
- Q Do you remember when that bunch of freedmen were there from Grand River? A I couldn't tell you; it seems to me like the time the Martins were there was the time I was there.
- Q Do you know where they came from? A I think they were from Grand River.
- Q You would not undertake to swear that one bunch of people from that section of country up in there didn't get a trial? A I don't know whether they did or didn't.
- Q You don't know? A No sir.
- Q Who was Judge of that Court? A Judge Daniels my recollection is that there was about three judges, I think one was a Sixkiller, Judge Daniels was the Chief Justice and I think George Scrapper was another Judge.
- Q Was Sixkiller a full blood? A I couldn't tell you that, he was a Cherokee.
- Q They were all Cherokees? A Yes sir, and Scrapper was probably a full blood, I don't think he was.
- Q Three quarters or full blood? A I couldn't tell you.
- Q How about Scrapper? A He was pretty near a full blood, he talked good English.
- Q Then two of the three Judges there were full bloods or nearly full bloods? A I couldn't say, two were full bloods, my recollection is that they were nearer full bloods than white.
- Q Judge Daniels was the Chief Justice? A That is my recollection.
- Q And he had a large percentage of Indian blood? A He was pretty fair.
- Q Wasn't he somewhere near half? A I couldn't tell you; I don't know the blood of these people.

(Witness excused).

MR. HASTINGS:

I desire now to offer for the purpose of contradicting the statements made by Tebe Dean, I desire to have the affidavit made by Tebe Dean to support the motion to reopen the case of Payton Martin, F B 304, introduced and made a part of the record in this case.

MR. PATTEN:

We have no objections.

ON BEHALF OF THE COMMISSIONER:

There being no objection a copy of the affidavit will be filed in this case.

MR. PATTER:

The Attorneys for applicants have no objection to that part of the record just ready by the representative of the Cherokee Nation, but submit that the record will show that it does not contradict the witness, Sam Webber, for the reason that we submit his testimony will show that a number of people admitted as he stated was that they were the only ones that he remember of being admitted while he was there, and for the same reason in regard to the other witnesses in this case has testified in regard to the procedure of the Daniels Court. For the purpose of rebutting the Cherokee Nation, for the purpose of corroborating the witnesses introduced on behalf of the applicants we ask that pages 35, 36, 37, 38, and 39, being a part of the record of the Docket of Doubtful cases for Cherokee citizenship tried in 1871 before the Daniels Court, being particular from Saline District, Cherokee Nation, Indian Territory, be made a part of the record in this case. Be copied into the record just as they are.

MR. HASTINGS:

The representative of the Cherokee Nation has no objection but takes this occasion to deny that it will in any way corroborate any statements made by witness, but on the other hand it tends to contradict the material parts of the testimony given by witnesses on behalf of the applicants.

ON BEHALF OF THE COMMISSIONER:

There being no objection the pages referred to will be here copied into the record and is as follows:

"Saline District.

- R R 53 Walker Martin, Too late, Decided against claimants June 13, 1871.
- R R 54 George Martin & family.
Decided against defendants, June 8th, 1871.
- R R 55 Jack Martin & family
Decided against defendants, June 8th, 1871.
- R A 56 William Lynch & family Martha witness
Decided in favor defendants, June 8th, 1871.
- R R 57 Stephen Henry Lynch & family
Decided against defendants June 8th, 1871.
- R R 58 Jack Davis
Decided against defendants, June 8th, 1871.

- R R 59 Jordan Thompson
Decided against defendant, June 8th. 1871.
- R R 60 Thomas Mayfield
Decided against defendant, June 8, 1871.
- R R 61 George Bryant
Decided against defendant, June 8, 1871.
- R R 62 Joseph Rogers & family
Decided against defendants, June 8, 1871.
- R R 63 George Lundum & family
Decided against defendants June 8, 1871.
- R R 64 Jacob Bean & family
Decided against defendants, June 8, 1871.
- R R 65 Samuel Roberts Too late
Decided against claimant, June 13, 1871.
- R R 66 Sandy Bean & family
Decided against defendants, June 8th, 1871.
- R R 67 Arthur Bean
Decided against defendant, June 8, 1871.
- R R 68 Tebe Bean
Decided against claimant June 8, 1871.
- R R 69 George Bean & family
Decided against claimants June 8, 1871.
- R R 70 Nelson Martin & family
Decided against claimants, June 8, 1871.
- R R 71 Jacob Martin
Decided against claimant June 9th, 1871.
- R A 72 Chas. Hays & family
Decided in favor of claimants, June 9th, 1871.
- R R 73 Adam Lynch & family
Decided against claimants June 9th, 1871.
- R R 74 John Bean
Decided against claimant, June 9th, 1871.
- R R 75 James Andrew Too late
Decided against claimant, June 13, 1871.
- R R 76 Johnson Vann
Decided against claimant June 9, 1871.

R A Delilah Vann & children
Decided in favor of claimant, June 9, 1871.

R R 77 Mariah Vann Too late
Decided against claimant 13, 1871.

R R 78 James Martin Too late
Decided against claimant, June 13, 1871.

R R 79 David Brown Too late
Decided against claimant, June 13, 1871.

R R 80 Washington Nave
Decided against claimant, June 9, 1871.

81 Leonard Boule
Claiming rights by marriage.

R R 82 James Vann & family
Decided against claimants June 13, 1871.

R A 83 Butler McKair Jno. Springsten witness
Decided in favor of claimants, June 9, 1871.

R R 84 Payton Martin
Decided against claimant June 9, 1871.

R A 85 Bill Vanns children as follows: Bill, Lydia,
Ben, Rose, Ima & Sally.
Decided in favor of claimants, June 9th, 1871.

R R 86 David French Too late
Decided against claimants, June 13, 1871.

R R Perry Vann Too late
Decided against claimant June 13, 1871."

Attorneys for applicants and the Cherokee Nation announce they have no further evidence to introduce in this case the same will be closed and a decision rendered on the evidence heretofore introduced.

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Geo. H. Lonsley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) Geo. H. Lonsley.
Subscribed and sworn to before me this 18th day of January, 1907.
(Signed) Chas. E. Webster.
Notary Public.

The undersigned being duly sworn states that the above is a true and correct copy of the foregoing instrument now on file in this office, she being stenographer to the Commissioner to the Five Civilized Tribes.

Subscribed and sworn to before me this 10th day of June, 1907.

Mary Labor Madison
A. L. Pitts
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Jesse Vann, et al., as Cherokee freedmen, consolidating the applications for the enrollment of:

Jesse Vann -----	Cherokee freedmen R 302	(D 254)
William Vann -----	Cherokee freedman R 573	(D 309)
Nettie Eaton -----	Cherokee freedman R 535	(D 109)
Daniel Lynch, et al-----	Cherokee freedmen R 301	(D 16)
Jacob Bean, et al-----	Cherokee freedmen D 393	

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by Jesse Vann for himself and minor children, Frank, Riley and Levat Vann; the application for the enrollment of Frank, Riley and Levat Vann is differently classified and their rights to enrollment will not be considered in this decision; by William Vann for himself and his wife, Hannah, and his minor child, Annie Vann; the application for the enrollment of said Hannah and Annie Vann is differently classified and their rights to enrollment will not be considered in this decision; by Tom Eaton for, among others, his wife, Nettie Eaton; the others included in said application are differently classified and their rights to enrollment will not be considered in this decision; by Daniel Lynch for himself and his wife, Mary Lynch, and their minor children, Arthur and Lucine Lynch; by Jacob Bean for himself and minor daughter, Bertha Bean, and minor son, George Bean; the application for the enrollment of said George Bean is differently classified and his right to enrollment will not be considered in this decision, and by Bertha Bean for her minor son, Willie Vann. The records further show that on July 10, 1903, the Commission to the Five Civilized Tribes rendered its decision herein, denying, among others, Jesse Vann, William Vann, Nettie Eaton, Daniel Lynch, Mary Lynch, Arthur Lynch and Lucine Lynch the right to enrollment as Cherokee freedmen, and that said decision was duly forwarded the Department for review; that thereafter on May 11, 1904 (I.T.D.2412-04), the Department affirmed said decision of the Commission to the Five Civilized Tribes as to all the applicants, and stated that inasmuch as said William Vann and Nettie Eaton had married recognized Cherokee freedmen, their rights as

intermarried citizens should be determined, and that thereafter on May 13, 1905, said Commission rendered its decision herein, denying said William Vann and Nettie Eaton the right to enrollment as citizens by intermarriage of the Cherokee Nation, which decision was, on June 22, 1905, duly approved by the Department. The records further show that on March 3, 1906, the Commissioner to the Five Civilized Tribes rendered his decision herein, denying the applications for the enrollment of Jacob Bean, Bertha Bean and Willie Vann as Cherokee freedmen, and that said decision was duly forwarded the Department for review; that thereafter on December 7, 1906 (I.T.D. 21044-06), motions to reopen said cases having been filed with the Department, the Secretary of the Interior recommended said cases to this office with instructions to consolidate the cases of Jesse Vann, et al. and Jacob Bean et al. Further proceedings in the matter of said applications were had at Muskogee, Indian Territory, January 10, 11, and 14, 1907. A copy of the testimony of Arthur Bean taken before the Commissioner to the Five Civilized Tribes September 14, 1905, in the matter of the application for the enrollment of Jackson Fields, et al., as Cherokee freedmen, and an affidavit executed by said Arthur Bean December 31, 1904, in the matter of said application, are filed herewith and made a part of the record herein.

THE EVIDENCE IN THIS CASE SHOWS: That the applicants herein, Jesse Vann, William Vann and Jacob Bean, were slaves of Cherokee citizens at the commencement of the war of the rebellion; that they left the Cherokee Nation during the progress of said rebellion, and did not return thereto and establish an actual personal bona fide residence in the Cherokee Nation until subsequent to February 11, 1867. It is further shown that Nettie Eaton and Daniel Lynch were born since 1866 and are descendants of Steve and Peggie Lynch, and neither claim nor possess any right to enrollment as Cherokee freedmen other than as such descendants; that the said Steve and Peggie Lynch were slaves of Cherokee citizens at the commencement of the war of the rebellion; that during the progress of said rebellion they left the Cherokee Nation and did not return thereto and establish an actual personal bona fide residence therein until subsequent to February 11, 1867. It is further shown that the said Bertha Bean was born since 1866, and is a daughter of the said Jacob Bean and one Judie Bean, since deceased; that the said Judie Bean was born in Kansas during the rebellion and was the daughter of said Steve and Peggie Lynch, and returned to the Cherokee Nation with her said parents when they returned thereto subsequent to February 11, 1867, and that said Bertha Bean possesses no right to enrollment as a Cherokee freedman not possessed by her said parents; that the said Willie Vann is a minor son of the said Bertha Bean and claims the right to enrollment as a descendant of his said mother, and also as a descendant of his alleged father, one Samuel Vann, a duly recognized freedman citizen of the Cherokee Nation; that the allegation

said Willie Vann possesses no right whatever, to enrollment as a descendant of his putative father; that the said Mary Lynch was born since 1866, and is the daughter of one Nancy Ross, and neither claims nor possesses any right to enrollment as a Cherokee freedman other than as such descendant; that the said Nancy Ross was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress of said rebellion she left the Cherokee Nation and did not return thereto and establish an actual personal bona fide residence therein until subsequent to February 11, 1867. The evidence further shows that the minor applicants herein, Arthur and Lucine Lynch are minor children of the said Daniel and Mary Lynch and possess no right to enrollment as Cherokee freedmen not possessed by their said parents.

In view of the foregoing it is considered that no one of the applicants herein possess any right whatever to Cherokee freedman citizenship. Excepting the Kern-Clifton and Wallace rolls none of the applicants can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), Jesse Vann, William Vann, Nettie Eaton, Daniel Lynch, Mary Lynch, Arthur Lynch, Lucine Lynch, Jacob Bean, Bertha Bean and Willie Vann are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

(Signed) Tams Dixby
Commissioner.

Dated at Muskogee, Indian Territory.

this Feb 23 1907.

FD 393

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-

in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901.

Given under my hand this.....
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
..... day of....., 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A.D. 1901

Subscribed and sworn to before me
this..... day of..... A.D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 17 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of **Jacob Bean**
for enrollment as a Cherokee Freedman:

Case No. F. D. **393**

To **Jacob Bean** **Vinita** **I. T.**

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of *Vinita, Indian Territory.* Indian Territory, on the following dates, to-wit: **Oct. 11th** at **8 o'clock A. M.** A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this *31st* day of *Dec.*, 1901.

W. H. Hastings

Attorneys for the Cherokee Nation.

AFFIDAVIT

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } SS

In the matter of the application of Jacob
Beau for enrollment as a Cherokee Freedman.

No. F. D. 393

Henry Pack, of lawful age, being duly sworn on
oath states that on the 13 day of Sept, A. D., 1901, he registered
to Jacob Beau whose postoffice is Umita
Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto
attaches the receipt of the Postmaster at Fort Gibson, I. T. Indian Territory;
and that on the 16 day of Sept, 1901, he received the return
card which is hereto attached, signed by the said Jacob Beau, showing
that he had received said notice.

Subscribed and sworn to before me on this the 17 day of Sept, A. D. 1901.

Henry Pack
J. C. Starr
Notary Public.

W

XD 393.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
NOV 8 1901



ACTING CHAIRMAN.

COMMISSIONERS.
HENRY L. DAWES,
TAMM DIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Sahlequah 23 Nov 27 1901

Received of the Commission to the Five Civilized Tribes
one copy of the testimony in the matter of the application of
Jacob Bean et al for enrollment as
Cherokee Freedmen.

No. KR 393

A. S. Squichie
Agent for applicants

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

In the matter of the application for the enrollment of Jacob Bean,
Bertha Bean, et al., as Cherokee Freedmen.

M O T I O N F O R R E H E A R I N G .

Comes now the applicant, Bertha Bean, in behalf of herself and her child, Willie Vann, and moves the Department to remand this case to the Honorable Commissioner to the Five Civilized Tribes in so far as it relates to the applications for the enrollment of Bertha Bean and her child, Willie Vann, in order that she have an opportunity to introduce the additional testimony which she has to show what rights she has to enrollment through her ancestors, Stephen Henry Lynch and Peggy Henry or Peggy Lynch.

The applicant moves the Department to direct that her application be consolidated with the Cherokee Freedmen Enrollment case of Jesse Vann, et al., who are also descendants of the said Stephen Henry Lynch and his wife, Peggy Henry Lynch, for the reason that these applicants are poor people and much expense would be saved to them by trying these cases as one consolidated case. The applicant expects to prove that her ancestor, Stephen Henry Lynch, commonly known as Stephen Lynch, came to the Cherokee Nation in the early fall of 1866 and selected him a claim upon the Public Domain of the Cherokee Nation; that he also bought a house and a small farm and went back to Kansas to get his family and effects and moved into his house about December, 1866; that he continued to own this house and claim continuously thereafter until his death, and the same place is now owned by his children; that late in the Spring of 1867 the said Stephen Lynch went back to Kansas temporarily to put in a crop on the Emerson place in Kansas where he had a lease; that he did put in his crop and as soon as he could sell it he sold it and came right back to his Home in the Cherokee Nation in the summer or fall of 1867; that his good faith in removing to the Cherokee Nation with his family and effects in December, 1866 will be materially shown by the fact that he kept his household

goods and effects in his house on his farm in the Cherokee Nation during the time he was in Kansas. The applicants also expects to show by competent testimony that the Decision of the Daniels Court against him in 1871 was not based upon any evidence whatever before said Court, and that the evidence that is now available before the Commissioner to the Five Civilized Tribes will show that the conclusion of the Cherokee Court upon the case was wholly rendered for lack of evidence then available. The testimony will show that Stephen Lynch and ~~many~~ a number of other Freedmen were called before the Supreme Court of the Cherokee Nation and that when they got to Tahlequah one of the judges of the Court advised them to go home , and that they were not given an opportunity to introduce any testimony before said Court and that they went home in accordance with the Judges instructions and after they were gone this default judgment was rendered against Stephen Lynch. The ~~all~~ evidence in the case already adduced shows that the applicant, Bertha Bean, was born since 1880 and is the daughter of the applicant, Jacob Bean and his wife, one Judie Bean, since deceased; and that the minor applicant, Willie Vann, was born since 1896 and is the illegitimate child of the applicant, Bertha Bean.

That the said ~~Judie~~ ^{Judie} Bean was born in Kansas during the rebellion and is the ~~daughter~~ ^{daughter} of Stephen Lynch and Peggy Lynch, both deceased, and both of whom were the slaves of a Cherokee citizen at the commencement of, and removed to Kansas during, the rebellion, and later, together, returned to the Cherokee Nation and established their residence therein.

The Decision ~~of~~ of the Commissioner to the Five Civilized Tribes found that the evidence shows that Stephen and Peggy Henry, or Lynch, since deceased, lived in the State of Kansas continuously from the fall of 1862 to the fall of 1867, and that in its Decision rendered on July 10, 1903, in re application of, among others, Nettie Eaton, for enrollment as a Cherokee Freedmen, case number D. 190, now R. 535, the Commission to the Five Civilized Tribes found that the said Stephen and Peggy Henry, or Lynch, did not return to the Cherokee Nation after the rebellion within the time specified in the Whitmire Decree, and on March 17, 1904, said finding was concurred in by the Commissioner

of Indian Affairs (Land 66281), and on May 11, 1904 affirmed by the Department [I.T.D. 2412-1904).

Thus it will be observed that Bertha Bean was denied the right to be enrolled as a Cherokee Freedmen in the Decision of the Commissioner dated March 3, 1906, because in the Nettie Eaton case, which is in the case of Jesse Vann, et al., it had been decided that Stephen Henry Lynch and his wife, Peggy, the ancestors through whom Bertha Bean claims, did not return to the Cherokee Nation until the fall of 1866. There is a Motion pending before the Department in the case of Jesse Vann, et al., which includes the Nettie Eaton case, for a rehearing and in the event that a rehearing is granted in the case of Jesse Vann, et al., and Nettie Eaton, we earnestly ask that this case be remanded and be consolidated with this case in order that at a retrial the cases may be tried as one and thereby save a vast amount of expenses to the applicants, and whatever rights they have to enrollment as Cherokee Freedmen, as descendants of the said Stephen Henry Lynch and Peggy Henry Lynch, might be determined in one case. The testimony already adduced in the Bertha Bean case shows beyond question that Stephen Lynch came to the Cherokee Nation in the fall of 1866 and bought him a house and a little farm and that he went back to Kansas in December and moved to the Cherokee Nation..

We contend that by this buying him a home and moving into it in December of 1866 that he was on February 11, 1867 an actual personal bona fide resident of the Cherokee Nation in good faith; that his good faith is shown by the fact that he actually bought him a home and a farm in the fall of 1866, and at a rehearing our witnesses in Kansas will show that he went back to Kansas temporarily in the late spring of 1867 and put in a little crop, leaving his property at his home in the Cherokee Nation; and that as soon as he could dispose of his crop he did so and returned to his home in the Cherokee Nation. The testimony from the Nation shows that he continued to live at his home in the Cherokee nation until his death, and it will be shown on a rehearing in this case that this same home and this same little farm that Stephen Lynch bought in the fall of 1866 is still in the possession of his descendants, some of the applicants in the Jesse Vann case.

There is hereto attached the affidavit of Thomas Barwick, a white man and a citizen of the State of Kansas who was working on the Surveyor Emerson farm in 1866 and lived at that time within a stone's throw of the house in which Stephen Lynch lived, and it will be observed that Barwick's testimony will show that in October 1866 Surveyor Emerson sent Stephen Lynch to Fort Scott, Kansas with a load of corn and that Stephen sold the corn and skipped out and went to the Cherokee Nation, Indian Territory. It will be observed that Simon Lynch in his testimony taken in December 7, 1905, says that Stephen Lynch paid him Twelve Dollars in gold for a little place he sold to Stephen Henry at that time. It is likely that Surveyor Emerson's load of corn paid for the place that Stephen Lynch bought from Simon Lynch in the fall of 1866. It will also be noted that Barwick says that Stephen Lynch came back to the Emerson place in December 1866 and moved to the Cherokee Nation; that he was gone until late in the Spring of 1867 when he and his wife, Peggy and Jesse and William came back with their team and tools and enough supplies to run them temporarily, and in the latter part of the Spring of 1867 he put in a corn crop on the Emerson place and in the fall of 1867 sold his corn crop and went back to his home in the Cherokee Nation, and that he at that time claimed that he had bought him a house and a little farm in the Cherokee Nation and claimed that he had left his household goods and personal property in his house in the Cherokee Nation and had come back with enough of his effects to make a crop as he had one more year's time on his lease on the Emerson place, and that his return to Kansas in the late spring of 1867 was temporary and for the purpose of putting in a crop; that Stephen Lynch reported when he came back in the fall of 1866 after his family that he had bought him a house and a farm and a home in the Cherokee Nation and that he was then moving to his new home.

Sarah Fine, whose affidavit is attached in support of this Motion, knew Stephen Lynch and his family in 1864, 1865 and 1866 and lived within one-fourth of a mile of this family; that she went away to work in the spring of 1866 and when she got back in the fall of 1866 Stephen Lynch and his family had gone away from the Emerson place and the witness was told they had gone to the Indian Territory to get

a home.

These two affidavits are filed in support of this Motion to show that same is made in good faith and as a basis for a rehearing in this case.

We have a great number of other witnesses in Kansas who will testify to about the same statements as are made by Thomas Barwick and whose testimony we will procure at a rehearing of this case if this, our Motion, is allowed.

Respectfully,

Starr & Patten
McLoran, Bennett & Mohr

ATTORNEYS FOR APPLICANTS.

State of Kansas
Linn County Sd.

On this 28th day of
July 1906 personally appeared
before me the Undersigned Notary
Public within and for Linn
County Kansas Thomas
Barwick to me personally
well known, who being by me
duly sworn on his oath
deposes and says:

" My name is Thomas Barwick
My age is years
and my past office is
Pleasanton, Kansas. I was
acquainted with Stephen Lynch
during his life time and knew
him in the fall of 1866. In
the year of 1866 Stephen Lynch
was living on the Emerson
place near Farlinville, Kansas.
I was working for Surveyor

2.

Emerson in the fall of 1866.-

Stephen Lynch and his family were living on the farm of Surveyor Emerson. In the fall of 1866, about the latter part of October 1866, Surveyor Emerson sent Stephen Lynch to Ft Scott, Kansas with a load of corn and Stephen Lynch sold the corn and shipped out to the Cherokee Nation, Indian Territory. He came back to the Emerson place in December 1866 and got his family and effects and moved to the Cherokee Nation. He was gone until late in the Spring of 1867 when he and his wife Peggy and Jesse and William came back with their team and a few tools and enough supplies to run them temporarily.

and in the latter part of the Spring of 1867 he put in a corn crop on the Emerson place and in the fall of 1867 he (Stephen Lynch) sold his corn crop and went back to his home in the Cherokee Nation. He claimed that he had bought him a house and little farm in the Cherokee Nation and claimed he had left his household goods and personal property in his house in the Nation and had come back with enough of his outfit to make a crop. As he had one more years time on his lease on the Emerson place. His return to Kansas in the late Spring of 1867 was of a temporary nature for the purpose of putting in a crop.

Stephen Lynch reported as soon as he came back to Kansas in the fall of 1866 after his family, that he had bought him a house and farm and a home in the Cherokee Nation and that he was moving to his new home.

Thomas Barwick

Subscribed and sworn to before me this 28th day of July 1906.

A. M. Kent

Notary Public

Term expires Jan'y 12 1910

State of Kansas }
County of Linn } ss

On this 28th day of July 1906
before me the undersigned Notary Public within
and for the said County Sarah Fine to me person-
ally known who being duly sworn on his oath
deposes and says My age is 61 years my
Post office is Pleasanton Kansas I was acquainted
with Stephen Lynch during his life time and
I knew him in 1864 1865 & 1866 I lived with in
one fourth of a mile of him in 1864 when he lived
on the Emerson farm in Spring of 1866 I went
to work at Old Trading Post near Lacygne Linn Co
Kansas when I went there in Spring Stephen
Lynch lived at Emerson place when I returned
home in fall of 1866 Stephen Lynch and family
had moved away I was told they had gone
to Indian Territory to get a home.
I have resided in said County continuously from 1863
up to present date Sarah Fine

Subscribed and sworn to before me this
28th day of July 1906

A. M. Trent
Term expires Jan'y 12-1910 Notary Public

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss.

Proof of Service.

J. C. STARR of lawful age, being duly sworn, says that
he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered
containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered
to W. W. HASTINGS

at MUSKOGEE, INDIAN TERRITORY as shown by the receipt of the postmaster
hereto attached. Which said postoffice is shown ~~by the records of the Attorney for the Cherokee Nation~~
to be the postoffice of the party to whom said envelope was mailed.

Subscribed and sworn to before me this 13th day of August, 1906

My Com Exp Oct 17-1909

Notary Public.

B

CHEBROKKEE FREEDMAN

COPY 393

20

IN RE
Application for Enrollment of
INFANT CHILD

Willie Vann
as a citizen of

CHEBROKKEE Nation

Approved June 3, 1901

T. B. Needles
Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE
FIVE CIVILIZED TRIBES

FILED
JUN 3 1901

Tams Birby,
Acting Chairman

**DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.**

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the CHEROKEE Nation,
of Willie Vann (Here insert name of child.), born on the 7th day of September, 1900
Name of Father: Samuel Vann a citizen of the Cherokee Nation.
Name of Mother: Bertha Bean a citizen of the Cherokee Nation.
Postoffice Vinita, I.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, Bertha Bean, on oath state that I am 15
years of age and a citizen by adoption, of the Cherokee Nation;
un
that I am the lawful wife of Samuel Vann, who is a citizen, by
adoption, of the Cherokee Nation; that a male child was
(Male or Female.)
born to me on 7th day of September, 1900; that said child has been named
Willie Vann, and is now living.

WITNESSES TO MARK:

(Must be Two
Witnesses.)

A. S. McRea

A. W. Jones

Bertha I Bean
her
mark

Subscribed and sworn to before me this 23th day of May, 1901.
(S E A L) 23
My Com Exp. April 15, 1903 G. F. Bailey
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, Mary Brown, a Midwife, on oath state that I
attended on Mrs. Bertha Bean, wife of Samuel Vann
on the 7th day of September, 1900; that there was born to her on said date a male
(Male or Female.)
child; that said child is now living and is said to have been named Willie Vann.

WITNESSES TO MARK:

Mary Brown

(Must be Two
Witnesses.)

Subscribed and sworn to before me this 23th day of May, 1901.
(S E A L) 23
G. F. Bailey
Notary Public.

NO. 393 -

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT,

I do solemnly swear that I delivered a true copy
of the within notice to Jacob
Beane at his home
on the 23rd day of May, A. D. 1902

Andrew Enoch

Subscribed and sworn to before me this 23rd
day of May 1902

J. M. Smith
Notary Public.

I, the undersigned attorney for the within named
applicant, hereby accept service of the within notice
on this the _____ day of _____ 190_____

Attorney for Applicant.

I, the undersigned agent for the within named
applicant, hereby accept service of the within notice
on this the MAY 26 day of 1902

Agent for Applicant.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
APR 26 1902

May 26

ACTING CHAIRMAN

NOTICE.

In the Matter of the application of Jacob Bean,
for enrollment as Cherokee citizens:

To Jacob Bean, Vinita, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes, Cherokee Enrollment Division, in the town of Muskogee, Indian Territory, on May 26th, A. D. 1902, at 8 o'clock a. m., or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands at Muskogee, Indian Territory, this MAY 20 1902

No. F. D. 393.

[Signature]
[Signature]
W. W. Hastings

Attorneys for the Cherokee Nation.

FD 393

19 1002

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Jacob Born,

Winita, I. T.

Cherokee, I. T.

Receives.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the motion for a rehearing of the application for the enrollment of Jacob Bean, et al., as Cherokee Freedmen, F. D. 393.

Reply of the Cherokee Nation.

The record in this case shows that application was made for the enrollment of the applicants on the 22nd day of May, 1901, at Vinita, Indian Territory; and the record further shows that testimony was taken in the case from time to time, on December 7, December 8, December 21, 1905, and on January 4, 1906, at Muskogee, Indian Territory, on which latter date the applicants appeared by J. J. Bulger of the firm of Blue & Bulger and the Cherokee Nation by James S. Davenport, when the records show the following proceedings were had:

"The records of this office show that the hearing of this case was continued from December 21, 1905, to January 4, 1906. The applicant appears by her attorneys, J. J. Bulger, and the Cherokee Nation by its representative, James S. Davenport, who announce that they have no further testimony to introduce on this day. The case will be closed and a decision rendered on the evidence heretofore introduced."

The record as above observed shows that testimony was introduced at the time the original application was filed and that subsequent to that time, namely, on December 7 and 8, a great volume of testimony was introduced in this case as was again on December 21, 1905; in fact, perhaps more witnesses were introduced in this case, or at least as many, as in any other individual case.

The decision of the Commissioner to the Five Civilized Tribes rendered March 3, 1906, rejecting the applicants, also refers to the testimony introduced in the Nettie Eaton case, who was a descendant of Stephen Henry Lynch, so that it will be seen that all of the testimony introduced as to the return and residence of Stephen Henry Lynch, his wife and descendants have been considered in this case.

The applicants have introduced a great number of witnesses who live

in their immediate vicinity who attempted to swear as to the time that they returned to the Cherokee Nation. Upon the other hand, the Cherokee Nation introduced in the Nettie Eaton case the record of the Daniels Court showing that Stephen Henry Lynch and family were rejected on June 8, 1871, and also the record in this case showing that Jacob Bean and family were rejected upon the same day by the Daniels Court. In the John and Cynthia Morgan case the department on March 5, 1906 (D.C. 9101-1906), held:

"The record shows, a fact not mentioned in said decision that the Supreme court of the Cherokee Nation June 8, 1871, denied John and Cynthia Morgan rights in the Nation.

In a similar case, that of Harry Still, in which such court admitted the applicant to all rights of Cherokee citizenship entitled under the treaty of 1866, the Assistant Attorney General in an opinion of October 5, 1905, approved, stated that the adjudication of this court has the same effect as the adjudication of 'similar cases by the United States Court under the act of June 10, 1896;' that when reopened to inquiry upon the facts, such adjudication is to be considered as evidence of great cogency to be followed unless it appears that fraud was practiced upon the court, or that the evidence then before the court and that now available, show that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong; that 'The commission should regard itself rather as a court reviewing the case as upon a petition for a new trial, than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years.'"

It will be seen in this case that Jacob Bean himself was decided against in 1871 and so was Stephen Henry Lynch. This was less than five years after the treaty of 1866 had been promulgated and but little more than four years after the expiration of the time within which freedmen were required to return to the Cherokee Nation. How easy it was then for these freedmen to have definitely established the exact date of their return to the Cherokee Nation. The records of this court show that a great number of freedmen were admitted to citizenship in the Cherokee Nation, and the records of the Chambers Court show that a great number of freedmen were admitted to citizenship under the 9th Article of the treaty of 1866, and the authenticated roll of 1880 shows that very nearly two thousand were enrolled as freedmen citizens of the Cherokee Nation. We mention these facts to show to the Department how clearly it refutes the contention of counsel for applicants now that the courts or commissions or judicial tribunals or that the legislative council of the Cherokee Nation were prejudiced against freedmen applicants to citizenship. The truth is that every old master in the Cherokee Nation did what he could to assist his old slaves, and the truth is that they testify now with the greatest

reluctance against them, but when they are called to the stand, when they are compelled to tell the truth, and when the truth is that these slaves did not return within the time, it is an insufficient answer to say that because they will not commit perjury that they are therefore prejudiced against freedmen applicants. If these tribunals had been governed, not by the testimony, but by prejudice why were any of these applicants admitted; they had exclusive jurisdiction prior to the time that Mr. Wallace was sent to the Cherokee Nation to make a roll in 1889 under the act of Congress approved in the fall of 1888. These Cherokee tribunals did not have to admit anybody whatever, but the records show that hundreds of them were admitted, and that within 14 years after the treaty of 1866 was made that the authenticated roll of 1880 was made and that there were admitted up to that time, together with their descendants, as many as two thousand freedmen applicants. We cite this fact against the bare statement of these attorneys for applicants who are now attempting to show to the department that the Cherokees were prejudiced against their old slaves. The truth is some of the most pathetic scenes ever witnessed in this country were the meetings of these old slaves with their masters, but if they did not return within the time they were not entitled under the law and their former owners ought not, in order to acquit themselves of being criticised as prejudiced against their former slaves, to be required to commit perjury. As was said by the Assistant Attorney General in the Harry Still case, in 1871 there was plenty of testimony at hand to show the exact date of the return of these people and the decision of the Cherokee tribunal in 1871 should be given ^{the} same weight, as was the Dawes Commission under the act of June 10, 1896, and the decision of that tribunal should not be lightly overturned. In fact in the Dawson case, where they were admitted in 1883 and 1884 to citizenship in the Cherokee Nation the department refused to go into the question of lack of evidence and the applicants in these cases refused to introduce any testimony upon the question of their Cherokee blood, but stood alone upon the question of their admission, and the Department held that the representative of the Cherokee Nation had not proved any fraud or corruption practiced upon

members of the court that admitted the Dawson family and that therefore the judgment of the Commission in 1883 and 1884 should stand. If that should stand as against the Cherokee Nation, or if the judgment in 1871 in the Harry Still case should stand as against the Cherokee Nation, then why should not a judgment in favor of the Cherokee Nation and against the applicants stand as against the applicants and why should not the applicants be required to prove fraud in connection with their rejection as the Cherokee Nation was required to prove fraud in connection with the admission of the Dawson case in 1883 and 1884, or the Cherokee Nation required to prove fraud in connection with the admission of Harry Still in 1871. Now 35 years have elapsed, nearly all of the older people who lived in the vicinity to which these applicants claim to have returned are dead. They have had five years within which to procure testimony. They have been represented by eminent counsel. Testimony in all companion cases have been thrown into this one and practically all of the old freedmen in the vicinity to which these people claim to have returned, including Crap Lynch, Al Lynch, Sam Vann, Edie Lynch, Simon Lynch, Andy Prye, Millie Prye, Sarah Morgan, Tobe Bean, and a host of others have been introduced attempting to show that Stephen Henry Lynch returned to the Cherokee Nation in the fall of 1866, or immediately after Christmas. They swear it in this case as they do in all other cases. They cling tenaciously to 1866. That is expected of them when they go upon the stand, and in all of this testimony it will be seen that they swear that certain times- teams were sent for them when they moved down to the Cherokee Nation with their families and when they permanently located. The Cherokee Nation introduced a number of local witnesses, but relied in the end upon the testimony of Mrs. Josephine Hughton who gave her postoffice as Farlington, Linn county, Kansas, where she had lived since 1857; she was 71 years of age, and during the war and immediately thereafter, was the wife of William B. Emerson. She was called to the stand on December 21, 1905, and we submit that no more clear and lucid statement and no more convincing statement has ever been made by any witness upon the stand. Therefore the freedmen witnesses on behalf of the applicant had boldly stated that Stephen Henry Lynch and his wife, Peggy,

and family came to the Cherokee Nation in the fall of 1866, either immediately before or just after Christmas, and had lived continuously in the Cherokee Nation ever since. This old woman comes upon the stand, entirely disinterested, not a citizen of the Cherokee Nation, not prejudiced against freedmen as alleged against other citizens of the Cherokee Nation, and she testifies of her own independent recollection that she knew Stephen Henry Lynch and his wife, Peggy, and she convinces the Commissioner to the Five Civilized Tribes by going into details, telling the members of the family, giving the names of the children, telling when they were born, alternating their births with the births of her own children, and in fact going into so many minute details even giving the nicknames of the children, and all this not mentioned in the record, and therefore unknown to any one connected with the case, so that no one who reads the entire record can but be convinced of the sincerity of this woman, her disinterestedness and the truthfulness of her statement. However, she does not have to depend upon her memory, but she is aided and substantiated in every statement she makes by a diary which her husband kept and this entire diary is introduced. By reference to this it will be seen that Stephen Henry Lynch was upon the Emerson farm and did odd jobs of work and had other business transactions with Mr. Emerson from January 6, 1866, until October 22, 1867, where the notation is made: "Steve and brother Bill start back to the Cherokee Nation." The diary also shows that he made a crop on this place in the year of 1866, because there is an entry showing about the stacking of wheat, and such things, and in 1867 it is much more complete and cannot be disputed, because it shows that he had 6.76 acres of corn, and he also made some molasses, and he also had some threshing done. So that these entries make it absolutely conclusive that he remained upon the place until the fall of 1867 as testified to by Mrs. Humiston. For the first time during the long trial of this case, beginning with their application on May 22, 1901, until December 21, 1905, nowhere is it alleged or admitted that Stephen Henry Lynch ever went back to Kansas and put in a crop in the Spring of 1867 until after the diary of William B. Emerson in the hands of Josephine Humiston was dug up and introduced, and then it was that the attorneys

for applicants sought to avoid the dreadful consequences of this testimony. They began to ask how they could get around it then, they could not swear against it even if they brought every freedman in the Cherokee Nation because the telltale record could not be refuted. Then it was for the first time that they sought to explain that they were down here within the time and only temporarily went back to Kansas. Now Mrs. Humiston, formerly Mrs. Emerson, emphatically denies this. She swears that they made five crops upon her husband's place. They admit making crops prior to 1866, they admit having been on the place now; they admit making the crop in 1867 now, and Mrs. Humiston's testimony discloses further the fact that one of these attorneys, namely, J. C. Starr, in searching after testimony prior to her coming to the Cherokee Nation to testify in this case, was shown this diary and after having been shown to him, and after she told him of what she knew about it, instead of searching for the truth and having her brought as a witness, he still searches the Cherokee Nation for freedmen witnesses to prove that Stephen Henry Lynch came to the Cherokee Nation on or about Christmas of 1866 with his family and continuously resided here subsequent to that time. Attorneys for applicants therefore knew of this diary before it was brought down and before it was introduced; in fact, it had been some two or three years before introduced in a companion case. Now Mrs. Humiston's diary shows that Steve Lynch had been down to the Cherokee Nation some time in August, but it also shows that he was back up there some time the last of August or the first of September of 1866, and it shows when he finally left there with his brother Bill, who was Bill Buffington.

Lets examine the motion for a rehearing a little more critically. They have an affidavit of Thomas Barwick, presumably the same man about whom the diary speaks, and about whom Mrs. Humiston testified, and this same Barwick attempts to testify that Sevier Emerson sent Stephen Henry Lynch to Fort Scott with a load of corn in 1866 and that he skipped out and ran off with the proceeds of the corn and that later he returned and in December removed his family to the Cherokee Nation, where he remained until the Spring in 1867, when he then returned and made a crop on the

Emerson farm. This statement is so ridiculous that we cannot find suitable language with which to comment upon it. In the first place if such an occurrence had happened, it would have been greener in the memory of Mrs. Humiston than any one else, and she certainly would have recalled this circumstance because all people immediately after the war were in poor financial circumstances in the western country, and all of them would have felt the loss of the price of a load of corn and she would have remembered it. But in the second place if Stephen Henry Lynch had run off with this load of corn and skipped with the proceeds, he would have been the last person on earth to have returned to Emerson's place in Linn County, Kansas. Just think of it. Stephen Henry Lynch committing the crime of embezzlement and less than a month returning to the scene of his crime, then moving his family away and shortly returning to the same place and to accept the confidence of the man he had previously robbed. Certainly to a reasonable mind this statement is the most ridiculous that has ever heretofore been set forth in an affidavit and we think will have no weight whatever with the Department. The next affidavit is made by Sarah Fine, and she herself contradicts Thomas Barwick, because she has Stephen Lynch and family moving away in the fall of 1866 and this good woman never does have the family returning in the Spring of 1867 and she never hears of them any more, although it is admitted now that they were there and made a crop in the year of 1867. This only illustrates and emphasizes what little importance can be attached to negative testimony.

In the Ann Johnson case, March 24, 1906 (I.T.D. 2758-1905), the Department held:

"There is no specific allegation of error in the decision of the Commission and the decision of the Department is not mentioned. It is true that accompanying the motion are affidavits which allege that the principal applicant, Ann Johnson, through whom the others claim, was brought to the Cherokee Nation from Kansas in 1866, but there is no affidavit of the principal applicant's explaining the failure to produce the parties to these affidavits at the original hearing or showing that with due diligence the evidence could not have been discovered prior to the hearing. Neither is an affidavit produced to show that the motion is not made for the purpose of delay."

In this case every opportunity imaginable was given these applicants. They were represented by counsel and the case was continued from time to time and both the Cherokee Nation and the applicants were represented,

and it was finally continued from December 21, 1905, to January 4, 1906, a period of two weeks, when attorneys for both parties at this last mentioned date appeared before the Commissioner to the Five Civilized Tribes and announced that they had no further evidence to offer and they were advised that a decision would be written upon the testimony theretofore introduced. In 2 Ark. 346, being the case of Olmstead versus Hill, the court held:

"It is the duty of the parties to come prepared upon the principal points and new trials would be endless if every additional circumstance bearing upon the facts in litigation were the cause for a new trial."

Just think of it; is the Department going to sustain a motion for a rehearing every time an applicant after an adverse decision scours the Cherokee Nation or Kansas and procures an ex parte affidavit tending to substantiate some point in the applicants case? If so, then is the department going to sustain a motion for a new trial filed on behalf of the Cherokee Nation in every citizenship case after an adverse decision to the Cherokee nation, provided its representative can secure an affidavit tending to prove some contention advanced on behalf of the Cherokee Nation. We certainly think not, because there would never be any finality to citizenship decisions in the Cherokee Nation. Both the Cherokee Nation would be bankrupted as well as the applicants. But as stated in the above opinion of the Supreme Court of Arkansas, new trials would be endless if every additional circumstance bearing upon the facts in litigation were the cause for a new trial.

Besides, the Supreme Court reports are full of decisions to the effect that no motion for a new trial will be sustained upon cumulative testimony.

In Cherokee Allotment contest No. 712, the Commissioner to the Five Civilized Tribes held:

"The rule is general that a new trial or rehearing will not be granted on a mere showing that new evidence has been discovered. Newly discovered evidence in order to be sufficient must possess the following requisites:

- (a) It must be such as would probably change the result if a new trial is granted.
- (b) It must be discovered since the trial.
- (c) It must be such as could not have been discovered before the trial by the exercise of due diligence.
- (d) It must be material to the issues.

- (e) It must not be merely cumulative to the former evidence.
- (f) It must not be merely impeaching or contradicting the former evidence."

Measured by any of the above standards this motion for a rehearing should not be sustained. Certainly the testimony of these two witnesses would not change the result if a new trial were granted; certainly every opportunity was given these applicants to introduce all the testimony they desired and no diligence is shown and unquestionably the proposed testimony is cumulative to the former evidence.

In the case of Moore versus Larney, Creek No. 49, it was held:

"In motions for rehearing resting on newly discovered evidence it should be shown that said evidence could not be discovered by due diligence and the facts showing such diligence should appear." Citing 6 L. D. 9; 7 L. D. 136; 10 L. D. 483; 18 L. D. 31; 19 L. D. 543.

The principles set forth in Cherokee Allotment Contest No. 712 hereinabove quoted are so elementary that they certainly will not be contradicted. The reasons for them are so apparent that no further elucidation seems to be necessary, and the necessity for the making of such rules by judicial tribunals grows out of the fact that if they were not made then there would never be a finality to any lawsuit.

We submit that the judgment of the commissioner to the Five Civilized Tribes denying these applicants on March 3, 1906, is just, that the same should be affirmed by the Department, and that for the reasons hereinabove set forth the motion for a rehearing should be denied, and that it is unnecessary to consolidate this case with the Jesse Vann case as the applicants are clearly not entitled to be enrolled as freedmen citizens of the Cherokee Nation.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR
RECEIVED
1. 3
3 of No. 19428
TERRITORY DIVISION

107431

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Rec MA 30-1

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Jacob Bean et al
for enrollment as citizens of the Cherokee Nation.

United States of America,)
Indian Territory,) ss.
Western District.)

Affidavit to Show Service.

This day personally appeared before me the undersigned a Notary Public within and for the Western District of the Indian Territory, H. M. Vance, who being by me first duly sworn on oath states that his age is 27 years and that his postoffice is Muskogee, Indian Territory, and that on the 21 day of Aug, 1906, he deposited in the United States postoffice at Muskogee, Indian Territory, an envelope containing a true copy of the instrument attached and he hereto attaches the receipt of the postmaster at said postoffice showing that he received said package to be duly registered and mailed to Starr & Patten whose postoffice is Winita, I. T.

H. M. Vance

Subscribed and sworn to before me this the 21 day of Aug, 1906.

Edward Miller
Notary Public.

My commission expires January 8, 1910.

U. S. Registered Mails go to every post office in the United States. Letters and packages must be paid for at the time of mailing. If not paid for at the time of mailing, they will be returned to the sender. If the sender desires to have the mail delivered through the post office, he must so indicate on the envelope. If the sender desires to have the mail delivered through the post office, he must so indicate on the envelope. If the sender desires to have the mail delivered through the post office, he must so indicate on the envelope.

Letter No. 894 P. O., Muskogee, Ind. T.

Received for registration 8-21-1906 from
Atty for the Cherokee Nation
addressed to Starr & Patten
Winita, I. T.

1 class postage prepaid

Postmaster, per OK

13.

J.F. 3.93

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 24 1901



ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

Post Office

District

May 23, 1906

Hixson St.

Delaware

1. Name

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

2. Name of wife

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

Names of Children:

1. Willie Vann

Year

Page

No.

Dist.

4.

Year

Page

No.

Dist.

5.

Year

Page

No.

Dist.

6.

Year

Page

No.

Dist.

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Dist.

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No.

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11.

Year

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No.

Dist.

12.

Year

Page

No.

Dist.

Application made by

Bertha Beaumont

Stenographer

B. B. Jones

m. / aff. of birth attached.

Book 111 Case 10 393

C. J. J. 393

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 22 1901

[Signature]

A. T. L. H. M. A. C.

Cherokee
F D--393

Muskogee, Indian Territory, November 23, 1905.

Jacob Bean,

Vinita, Indian Territory.

Dear Sir:

In connection with the Cherokee freedman enrollment case of yourself, et al., you are advised that before a decision can be rendered in this case, it will be necessary that further testimony be introduced as whether or not your wife, Julia Bean, formerly Julia Henry, mother of your daughter, Bettie Bean was the slave of a Cherokee citizen at the commencement of the war of the rebellion; whether or not she left the Cherokee nation during the war, and if so the date of her return thereto, and her residence therein from the date of her return until her death.

Additional testimony is also required as to whether or not your grand-son, Willis Vann, possesses any rights to enrollment as a Cherokee freedman through his alleged father, Samuel Vann.

You are, therefore, hereby notified to appear before the office of the Commissioner to the Five Civilized Tribes, at nine o'clock A. M., on Thursday, December 7, 1905, and introduce testimony as above indicated. The Cherokee nation will also be permitted to appear on that date and introduce such testimony as it desires in this case.

Respectfully,

Acting Commissioner.

Cherokee
F D--393

Muskogee, Indian Territory, November 23, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In connection with the Cherokee freedman enrollment case of Jacob Bean, et al., you are advised that before a decision can be rendered in this case, it will be necessary that further testimony be introduced as to whether or not Jacob Bean's wife, Julia Bean, formerly Julia Henry, mother of the applicant, Bettie Bean, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; whether or not she left the Cherokee Nation during the war, and if so the date of her return thereto, and her residence therein from the date of her return until her death.

Additional testimony is also required as to whether or not Jacob Bean's grand-son, Willie Vann, possesses any rights to enrollment as a Cherokee freedman through his alleged father, Samuel Vann.

The principal applicant has, therefore, this day been notified to appear before the office of the Commissioner to the Five Civilized Tribes, at nine o'clock A. M., on Thursday, December 7, 1905, and introduce testimony as above indicated. The Cherokee Na-

Bell, Hastings & Davenport---2.

tion will also be permitted to appear on that date and introduce such testimony as it desires in this case.

Respectfully,

GHL

Acting Commissioner.

Cherokee Freedmen

D-393.

Muskogee, Indian Territory, December 21, 1905.

J. J. Bulger,

Vinita, Indian Territory.

Dear Sir:

There is inclosed herewith copy of supplemental proceedings of December 7, 1905, in the matter of the application for the enrollment of Jacob Bean, et al., as Cherokee freedmen.

Respectfully,

Incl. S-103

Commissioner.

Cherokee Freedmen

D-393.

Muskogee, Indian Territory, December 21, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental proceedings of December 7, 1905, in the matter of the application for the enrollment of Jacob Bean, et al., as Cherokee freedmen.

Respectfully,

Incl. 8-104

Commissioner.

Muskogee, Indian Territory, March 3, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of Jacob and Bertha Bean and Willie Vahn as Cherokee freedmen, including the Commissioner's decision dated March 3, 1906, rejecting said application.

Respectfully,

Incl. 3-13

Acting Commissioner,

Through the

Commissioner of Indian Affairs.

Muskogee, Indian Territory, May 10, 1906.

Bulger, Starr & Patten,

Vinita, Indian Territory.

Gentlemen:

This office is in receipt of your letter of May 7, 1906, asking to be entered as Attorneys of record for the applicants in the Cherokee freedman case of Jacob Bean et al. You also ask to be furnished a copy of such testimony as has not heretofore been furnished the applicant.

In reply you are advised that as requested your names have been entered as Attorneys of record for the applicants in this case. You are further advised that J. J. Bulger, of Vinita, Indian Territory, has heretofore been furnished a copy of all the proceedings had in this case, as the Attorney of record.

Respectfully,

GHL

Acting Commissioner.

(COPY)

COPY

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND
20616-1906.

May 24, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the commissioner to the Five Civilized Tribes, dated March 3, 1906 transmitting the record of the application for enrollment as Cherokee Freedmen by Jacob Bean for himself and his minor child, Bertha Bean; and by Bertha Bean for her illegitimate minor child, Willie Vann,

March 3, 1906, the commissioner decided adversely to the applicants.

The record shows that Jacob Bean was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that he moved to the State of Kansas during the war and did not return to the Cherokee Nation and establish a residence therein on or before February 11, 1867; that the minor applicant, Bertha Bean was born since 1880 and is the daughter of Jacob Bean and his wife Judie Bean, since deceased; that the applicant, Willie Bean, was born since 1896, and is the illegitimate child of the applicant Bertha Bean, and some person unknown; that on June 8, 1871 Jacob Bean and his family were denied the right to Cherokee Freedmen citizenship by the Daniels Court; that neither the applicants nor any ancestor through whom by any possibility

they might obtain Cherokee citizenship can be identified on the Cherokee authenticated tribal roll of 1880, or the Cherokee census roll of 1896.

In view of the record, the approval of the Commissioner's decision adverse to the applicants is recommended.

Very respectfully,

C.F. Larrabee

Acting Commissioner.

MEM

C

LAW OFFICES
McGOWAN, SERVEN & MOHUN
GLOVER BUILDING, 1419 F STREET, N. W.
WASHINGTON, D. C.
J. H. McGOWAN A. R. SERVEN BARRY MOHUN

August 17, 1906.

The Honorable,

The Secretary of the Interior,

Washington, D. C.

Dear Sir:

We beg to hand you herewith motion for rehearing in the matter of the application for the enrollment of Jacob Bean, Bertha Bean et al. as Cherokee freedmen. We earnestly request that this case be remanded and that the Commissioner to the Five Civilized Tribes be directed to consolidate this application with the application for the enrollment of Jesse Vann et al. In support of this request we beg to state that since the Jesse Vann case was tried Messrs. Starr & Patten have taken the testimony of more than twelve witnesses in the Bertha Bean case as to the return of Stephen Lynch and Jesse Vann from Kansas.

We should have stated that it will appear from this motion that Bertha Bean is a daughter of Judie Bean who is a full sister of Jesse Vann and, therefore, whatever rights Jesse Vann has for enrollment in the Cherokee Nation the same rights would be possessed by Bertha Bean. There has also been taken in the Jesse Vann case the testimony of several witnesses as to the return of Stephen Lynch and Jesse Vann from Kansas and if these two cases were consolidated it would save these poor people the expense of being obliged to have the same witnesses before the Commissioner the second time.

If the Bertha Bean case is remanded we understand the whole case will be thus remanded for rehearing and that it will not be

necessary to file affidavits in the Jacob Bean case. We will be very glad, however, if you will inform us as to this. We sincerely hope that you will remand this case of Jacob Bean, Bertha Bean et al. and direct the Commissioner to consolidate it with the case of Jesse Vann which was remanded for rehearing on April 14, 1906.

Respectfully yours,

W. L. Brown, James H. Brown

Muskogee, Indian Territory, August 30, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the reply of the Cherokee Nation to a motion for a rehearing in the Cherokee freedman enrollment case of Jacob Bean, et al.

The records of this office fail to show that a motion for a rehearing of said case has been filed with it. The decision of the Commissioner to the Five Civilized Tribes, dated March 3, 1906, together with the record of proceedings had in the Cherokee freedman case of Jacob Bean, et al., B 393, was on that date forwarded to the Department where it is now pending.

Respectfully,

Encl. M.A.30-1.

Acting Commissioner.

Through the Commissioner
of Indian Affairs.

REFER IN REPLY TO THE FOLLOWING:

(COPY)

Land
76233-1906 /

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

October 3, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Acting Commissioner to the Five Civilized Tribes, dated August 30, 1906, transmitting motion for rehearing in the matter of the application of Jacob Bean, et al, for enrollment as Cherokee freedmen. The record in the case was forwarded to the Department on May 24, 1906, Land 20616.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

GAV-GH.

DEPARTMENT OF THE INTERIOR, LLE
WASHINGTON.I.T.D. 9640-1906.
19428- "

December 7, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On May 24, 1906 (Land 20616), the Indian Office transmitted your report dated March 3, 1906, forwarding the record of the application for enrollment as Cherokee freedmen by Jacob Bean for himself and his minor child, Bertha Bean, and by Bertha Bean for her illegitimate child, Willie Vann.

On March 3, 1906, you decided adversely to all of the applicants in said case.

On August 17, 1906, the attorneys for the applicants in this case filed a motion for rehearing on behalf of Bertha Bean and her minor child.

The Indian Office on October 3, 1906, forwarded the reply of the attorneys for the nation to said motion.

The Department has considered this motion in connection with the motion for rehearing filed in the case of Jesse Vann et al., a rehearing in which was ordered on April 16, 1906, and which is now before the Department awaiting consideration of your suggestion that said order for rehearing be rescinded, in view

of your decision in this case.

The affidavits in support of the Vann motion are objected to by you for the reason that only one person of all of those who appear as parties to the affidavits in support of the motions has not testified in this case or in the Vann case, or been denied enrollment by you. The affidavits of those denied enrollment are unquestionably valueless, but the Department believes that in view of the affidavits submitted by those persons who do not appear to have been impeached, together with the affidavits of Thomas Barwick and Sarah Pine, filed in support of this motion, sufficient question is raised to warrant a further hearing in the case.

The case is therefore remanded for further hearing, and you are directed to consolidate the cases of Jesse Vann et al. and Bertha Bean et al., and permit the applicants and the nation to present such testimony as you may deem proper in connection with the return of Stephen Henry Lynch to the Cherokee Nation prior to February 11, 1867, and with reference to the regularity of those proceedings upon which decision of the supreme court of the Cherokee Nation dated June 8, 1871, in regard to said Stephen Henry Lynch are based.

In view of the short time left for the consideration of en-

-2-

rellment cases, you will notify the attorneys for the applicant and the nation of the necessity of an early hearing.

Respectfully,

Thos. Ryan.

Through the Commissioner
of Indian Affairs.

First Assistant Secretary.

8 inclosures.

REFER IN REPLY TO THE FOLLOWING:

Cherokee Freedmen
D 393

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 17, 1906

Jacob Bean,

Vinita, Indian Territory.

Dear sir:

You are hereby advised that the Department , on December 7, 1906, ordered a rehearing in the Cherokee freedman case of yourself, your daughter, Bertha Bean, and grandchild, Willie Vann, said case to be consolidated with the case of Jesse Vann et al., and readjudicated with said cases.

This office is directed to "permit the applicants and the nation to present such testimony as you may deem proper in connection with the return of Stephen Henry Lynch to the Cherokee Nation prior to February 11, 1867, and with reference to the regularity of those proceedings upon which decision of the supreme court of the Cherokee Nation dated June 8, 1871, in regard to said Stephen Henry Lynch are based."

Your attorneys, Starr & Patten, Vinita ,Indian Territory, have this day been directed to furnish this

Jacob Bean--2

office, at the earliest practicable date, a list of the names and addresses of the witnesses they propose to introduce, upon receipt of which a copy of the same will be furnished the Attorney for the Cherokee Nation, after which said cases will be regularly set for hearing, of which action all parties at interest will be notified.

Respectfully,



L M B

Commissioner

Cherokee Freedmen
362 et al.

Muskogee, Indian Territory, December 17, 1906

Starr & Patten,

Attorneys for Jesse Vann et al.

Vinita, Indian Territory.

Gentlemen:

There is enclosed a copy of Departmental decision of December 7, remanding the Cherokee freedman cases of Jesse Vann et al., and Jacob Bean et al., to this office for rehearing and readjudication, said cases to be consolidated.

The Department directs this office to "permit the applicants and the nation to present such testimony as you may deem proper in connection with the return of Stephen Henry Lynch to the Cherokee Nation prior to February 11, 1867, and with reference to the regularity of those proceedings upon which decision of the Supreme Court of the Cherokee Nation dated June 8, 1871, in regard to said Stephen Henry Lynch are based."

The Department states that "By reason of the

Starr & Patten-2

short time remaining in which enrollment cases may receive consideration, in notifying the attorneys for the applicants and the nation of this action, you will suggest the necessity for an early hearing."

You are therefore, notified to furnish this office at the earliest practicable date, a list of the names and addresses of the witnesses you expect to introduce on behalf of the applicants, after which the attorney for the Cherokee Nation will be furnished a copy of the list of the names and addresses of the witnesses, and the cases will be regularly set for hearing.

Respectfully,

L M B

Commissioner

Encl. B-90

Cherokee Freedmen
R 308 et al.

Muskogee, Indian Territory, December 17, 1906

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed a copy of Departmental decision of December 7, 1906, remanding for rehearing and readjudication the Cherokee Freedmen cases of Jesse Vann et al., and Jacob Bean et al., said cases to be consolidated. The attorneys for the applicants have been requested to furnish this office at the earliest practicable date, a list of the names and addresses of the witnesses they propose to introduce on behalf of the applicants. Upon receipt of the same you will be furnished a copy thereof, after which the cases will be set for hearing, of which action the parties at interest will be notified.

Respectfully,

L M B

Commissioner

Encl. B-89

Cherokee F.
D 393

Maskogee, Indian Territory, February 23, 1907.

Jacob Bean,

Vinita, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 23, 1907, rejecting, among others, the application for the enrollment of yourself, daughter and grandson as Cherokee freedmen. Your attorneys, Starr & Patten, Vinita, Indian Territory, have heretofore been furnished a copy of the record of proceedings had in the case, and there has this day been forwarded them a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-94
JMH

Register.

Commissioner.

Cherokee Y.
302 et al.

Muskogee, Indian Territory, February 23, 1907.

Starr & Patton,

Attorneys for Jesse Vann, et al.,

Vinita, Indian Territory.

gentlemen:-

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 23, 1907, rejecting the applications for the enrollment of Jesse Vann, et al., as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. F-96
JMH

Commissioner.

Cherokee F.
R 302 et al.

Muskogee, Indian Territory, February 23, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 23, 1907, rejecting the applications for the enrollment of Jesse Vann, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the matter, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Commissioner.

Encl. H-95
JMH

Muskogee, Indian Territory, February 23, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of Jesse Vann, et al. (E 302 et al), as Cherokee freedmen, together with the decision of the Commissioner, dated February 23, 1907, denying the applications for the enrollment of Jesse Vann, William Vann, Nettie Eaton, Daniel, Mary, Arthur and Lucine Lynch, Jacob and Bertha Bean, and Willie Vann as Cherokee freedmen.

On December 9, 1906 (I.T.D.21644-1906), the Department ordered the case of Jesse Vann , et al. consolidated with the case of Bertha Bean, et al., and remanded the case to this office for rehearing and readjudication.

Respectfully,

Encl.H-97
JMH

Commissioner;

Through the Commissioner
of Indian Affairs.

Land
1897-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. March 1, 1907.

(COPY)

The venerable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from Commissioner Bixby, dated February 23, 1907, enclosing record of proceedings had in the matter of the application for the enrollment of Jesse Vann, et al., as Cherokee Freedmen, including his decision, dated February 23, 1907, denying the applications for the enrollment of Jesse Vann, William Vann, Nettie Eaton, Dahiel, Mary, Arthur and Lucine Lynch, Jacob and Bertha Bean, and Willie Vann, as Cherokee freedmen.

On December 7, 1906 (I.T.D. 21044-1906), the Department ordered the case of Jesse Vann, et al., consolidated with the case of Bertha Bean, et al., and remanded it to the Commissioner for a re-hearing and re-adjudication.

The record transmitted includes the original record, together with the decision of the Commission and the record on re-hearing.

The evidence shows that Jesse Vann, William Vann and Jacob Vann were slaves of Cherokee citizens at the commencement of the War of the Rebellion, and left the Cherokee Nation during the

progress of the War and did not return thereto and establish an actual, personal bona fide residence therein until subsequent to February 11, 1867. It is further shown that Nettie Eaton and Daniel Lynch were born subsequent to 1866, and are descendants of Steve and Peggy Lynch, and derive such rights as they may have through their ancestors, who were slaves of Cherokee citizens at the commencement of the War of the Rebellion, and it is shown that they left the Cherokee nation during the War and did not return thereto until subsequent to February 11, 1867.

The record also shows that Bertha Bean was born since 1866; is the daughter of Jacob Bean and Judie Bean; that Judie Bean was born in Kansas during the Rebellion, and is the daughter of Steve and Peggy Lynch, and returned to the Cherokee nation with her parents when they returned thereto subsequent to February 11, 1867. Bertha Bean, therefore, possesses no right to enrollment not possessed by her parents.

Willie Vann is a minor son of Bertha Bean, and claims the right to enrollment as a descendant of his mother, and also as a descendant of his alleged father, Samuel Vann. It is also shown that the allegation that Willie Vann is the son of Samuel Vann is denied by Samuel Vann, and under the ruling of the Department in the case of Frank A. Grinnett (I.T.D. 1790-1905), Willie Vann possesses no right to enrollment as a descendant of his alleged father.

Mary Lynch is shown to have been born since 1866; is the daughter of one Nancy Ross, and has no right to enrollment as a Cherokee freedman other than as such descendant. Nancy Ross

was the slave of a Cherokee citizen at the commencement of the War of the Rebellion, and left the Nation during the War, and it is shown that she did not return thereto until subsequent to February 11, 1867.

The evidence further shows that the minor applicants, Arthur and Lucine Lynch, are minor children of Daniel and Mary Lynch, and possess no right to enrollment as Cherokee freedmen not possessed by their parents.

Excepting on the Kern-Clifton and Wallace rolls, none of the applicants can be identified on any of the rolls of the Cherokee Nation in the possession of the office of the Commissioner. The evidence taken on the new hearing has been carefully examined and compared, and the Office is of the opinion that while it is not necessary to review it at length, that it conclusively shows that the decision of the Commissioner in denying the enrollment of the above named applicants is correct, and it is recommended that it be affirmed.

Very respectfully,

C. F. Parrabee

Acting Commissioner.

RWR--SD.

(COPY)

CRW

DEPARTMENT OF THE INTERIOR, RJH

WASHINGTON.

D.C.13313-1907
I T.D.7572-1907
7546- "

March 4, 1907.

LRS

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian territory.

Sir:

Your decision of February 23, 1907, adverse to the applicants, in the matter of the applications for the enrollment of Jesse Vann, et al., as Cherokee freedmen, is hereby affirmed. A Copy of Indian Office letter of March 1, 1907 (Land 19717), submitting your report of February 23, and recommending that your decision be affirmed, is inclosed.

A copy hereof and all the papers in the case have been sent to the Indian Office.

Respectfully,

E. A. Hitchcock.

1 inc. and 5 incs.
for Ind. Off.

Secretary.

Cherokee V.
D 393

COPY

Muskogee, Indian Territory, March 23, 1907.

Jacob Bean,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 23, 1907, rejecting, among others, your application for the enrollment of yourself, child and grandchild, as Cherokee freedmen, was affirmed by the Secretary of the Interior, March 4, 1907.

Respectfully,

SIGNED *James Bixby.*

Commissioner.

JMB

Cherokee F.
R 301, et al.

COPY

Muskogee, Indian Territory, March 23, 1907.

Starr & Patten,

Attorneys for Jesse Vann, et al.,

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 23, 1907, rejecting the applications for the enrollment of Jesse Vann, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Tams Dixby.*

Commissioner.

Encl. H-3
JMS

Cherokee F.
N 302, et al.

COPY

Muskogee, Indian Territory, March 23, 1907.

W. V. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 23, 1907, rejecting the applications for the enrollment of Jesse Vann, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Tams Bixby*
Commissioner.

Encl. N-4
JMH

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Enc. No. of No. 8640

INDIAN TERRITORY DIVISION

CHEROKEE CASE

NO. 11-78

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE
APPLICATION FOR ENROLLMENT
OF

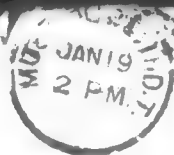
Jacob Bran et al

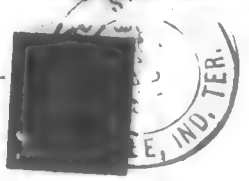
As _____ citizen _____ of the Cherokee Nation.

Muskogee, I. T., MAR 3- 1906 190

Respectfully forwarded to the Secretary of the Interior
for review.

Acting Chairman.





Department

Commission

MUS

OFFICE

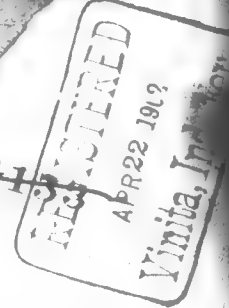
Penalty for

\$300.

UNCLASIFIED

Mr. Jacob Bean,

Vinita, Indian Territory.



*notified
3/19/02
3/18/02*

Department of the Interior.

Commissioner to the Five Civilized Tribes,

MUSKOGEE, IND. TER.



Jacob Bean,

Vinita, Indian Territory.

1/8 24/02

Cher. Fr. R-885

Cher. Fr. R-885

Trans. from Cher. Fr. D 403

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ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
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...and the fact that the *Journal of Management* is a leading journal in the field of management research, it is not surprising that the *Journal of Management* is one of the most cited journals in the field of management research.

1990

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 23, 1901.

In the matter of the application for the enrollment of Will Richardson and one child as Cherokee Freedmen.

Laura Richardson, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Laura Richardson.
- Q How old are you? A 24.
- Q What is your post office? A Grove.
- Q What district do you live in? A Delaware.
- Q Do you apply to be enrolled as a Cherokee Freedman? A No, I want my little girl enrolled and my husband, he is in the pen.
- Q Do you apply for yourself; you are a state woman? A Yes, sir, I am a state woman, I just married a right.
- Q You were not married according to the laws of the Cherokee Nation; did your husband have a license? A No, sir, I don't think we had any license.
- Q What is the name of your child? A Lissie Blanche Richardson.
- Q How old is she? A 2 years and eight months.
- Q What is your husband's name? A Will Richardson.
- Q How old is he? A Well I don't just know how old he is.
- Q Do you know about how old he is? A I reckon he is maybe about 21 or 22.
- Q Is he older than you? A I don't know how old he is.
- Q What is his father's name? A His father is named, his father is Richardson I reckon, I don't know his given name.
- Q Do you know his mother's name? A Her name is Carrie Ratliff.
- Q Is he a colored man? A Will Richardson, yes.
- Q What is the reason he isn't here himself? A He has been in the pen two years.
- Q Where at? A Texas.
- Q Where did he go to the pen from; where was he living when he went to the pen? A He went to see his sister.
- Q Where; in Texas? A I don't know, in Texas or where he left from here, but he got in trouble down there.
- Q Where were you married? A I was married; I have been married three years but I don't know what year it is.
- Q Where were you married? A On Grand River.
- Q Who married you? A Preacher Bogle.
- Q Have you got a certificate of marriage? A No, I have got witnesses.
- Q Is Preacher Bogle living? A Yes, sir.
- Q Living up close to you somewhere? A He lived up here at Afton some place.
- Q Is your husband's name on the roll of 1880? A Yes, sir, his name is on the roll.
- Q You were too late to get a right for yourself? A I am not caring for myself, it is my little girl and my husband.
- The 1880 authenticated roll of Cherokee Freedmen examined and the name of Will Richardson not identified thereon.
- Q Was he ever so by any other name except William Richardson?
- A No, sir, William Richardson, his name is on the roll.
- Q On the 1880 roll? A I don't know whether it is on the 1880 roll, it is on one of them rolls.
- The Kerns-Clifton roll examined and the applicant Will Richardson identified thereon, page 117, No. 2825, Willie Richardson, district unknown; note says "Son of Arch Landrum."
- Q Is he a son of Arch Landrum? A No, sir, Arch Landrum is his uncle.
- The Wallace roll examined and the applicant Will Richardson identified thereon, page 136, No. 2842, Tahlequah district, as Wm. Richardson.

Will Richardson - 2.

Eliza Tucker, being duly sworn and examined by Commissioner Needles, testified as follows:

Q Is your name Eliza Tucker? A Yes, sir.

Q What is your post office? A Vinita.

Q How old are you? A I am about 45 years old.

Q Do you know William Richardson, the husband of the applicant here? A Yes, sir.

Q What relation is he to you? A He is my nephew, my sister's child.

Q Do you know whether his name is on the roll of 1880 or not?

A I don't know, I don't think it is, I know my mother had him enrolled on the Wallace roll; my oldest sister was the guardian for those two children and she died last spring and so the papers she had I don't know what became of them.

Q He was old enough to be on the roll of 1880 was he? A I should think he was; she had them at that time somewhere about Fort Gibson.

Q What is ~~his~~ mother's name? A Caroline Ratliff, I don't think she was on that 1880 roll, but she was dead at that time, but on them old rolls that have been made why she is.

Q Was she a slave? A She was born a slave just before the war.

Q When did she die? A Well, I don't know exactly what year it was; we lived out on old Mr. Marks' place when we drewed that fifteen dollars and something.

Q Well, was it since 1880? A Yes, sir.

Q Who did she belong to, do you know? A Belonged to Ratliff, my mother belonged to John Ratliff.

Q Do you know whether she was taken out of the Cherokee Nation during the war? A No, there wasn't none of us taken out, we stayed right there with out mother.

Q She was here all the time? A Yes, sir; never was out of here in my life.

Q Was his mother ever out of the Nation? A Not until she married Mr. Richardson, he was a soldier and he taken her along as the laundress for the Company, and she was killed in Fort Concho, Texas.

Q Where was Will Richardson born? A I can't tell if this child was born in Texas; you see after my sister was killed my older sister had care of them, she taken them from ~~little~~ little ~~ways~~ bits of children and raised them up, and when she brought them to us they were good sized children; she came with them a couple of months before the Wallace roll was made.

Q From Texas before the Wallace roll? A From down below, and brought them to grandma's and we kept them until mam a died.

Q How long then have they lived here in the Cherokee Nation?

A Been here ever since my sister brought them back.

Q Will Richardson is married now? A Yes, sir.

Q This applicant here is his wife? A Yes, sir.

Q Well, he is in the penitentiary is he? A That is what his sister said.

Q How did he come to get in the penitentiary in Texas.

A He went to look for his sister.

Q After he was married? A Yes, sir.

Q Do you know whether him and the applicant were ever married?

A No, sir, no more than what she said herself; she says she has got witnesses.

Q You don't know whether they were married or not? A No, sir, only she just said she had witnesses to that; of course I can testify as to Dora Richardson and Will Richardson is my sister's children, their mother never was married until she was taken out here.

By L. B. Beall, Cherokee attorney: When did this girl go to Texas when she married; about '67 wasn't it? A I guess it must have been.

Q Well, she stayed there until she died, was killed there? A Yes,

Will Richardson - 3.

sir.

Q And you say these children were brought back the same year the Wallace payment, about a few months before? A Yes, sir.

Commissioner: That was her children? A Yes, sir.

Mr. Bell: Didn't we have this same case up at Gibson? A No, sir, I wasn't to Gibson, I never been down to Gibson.

Q How many children did they bring back, of your sister? A Brought two.

Q Where is the other one? A She is in town, she was out here the other day.

Q You say she never did leave the Cherokee Nation during the war?

A No, sir, lived down at Going Snake; Illinois.

Q Whereabouts in Going Snake? A Down there, about -- you know where Becks Mill, down there is where we lived during and war, and we came to Tahlequah before the treaty was made and lived right there.

Q Well, who did you live with down there about Becks Mill? A We lived with Miss Nellie Landrum, sister to Arch; we all lived together until she died.

Q When did you leave Going Snake? A We left Going Snake and came over to Tahlequah before the treaty was made.

Q Was that after the war? A Yes, sir, we were living where the Pea Vine school house was when peace was declared.

Q How old were you? A I don't know, about 45 years old.

Q I am asking you how old you were when you were living at Pea Vine?

A I was a good size girl, a young woman, but I can't just tell exactly my age, but I was old enough to know.

Q How long has this woman's husband been gone? A He went away from her directly after this last payment was made.

Q Went away directly after this Korns payment? A Yes, sir.

Q Did he leave this woman here? A Yes, sir.

Laura Richardson, recalled, testified as follows:

Mr. Bell: Where did you marry your husband? A On Grand River, at Spence Landrum's house.

Q How long has your husband been gone? A He has been gone about two years I reckon, I think about two or three; I know after the payment.

Q He left that same year right after the payment? A Yes, sir.

John Downing, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John Downing.

Q How old are you? A I am 27.

Q What is your post office? A Vinita.

Q Do you know Laura Richardson, the applicant? A Yes, sir.

Q Do you know her husband, Will Richardson? A Yes, sir.

Q Do you know whether they were married or not? A Yes, sir.

Q How do you know it? A Why I saw them married.

Q Where? A At Spence Landrum's.

Q Who married them? A Old man Bogle, I can't call all his name.

Q When was that? A I don't know just when it was.

Q You don't know what year it was, how long, or anything about it?

A No, sir, I never paid much attention to it.

Q How long did Will Richardson live with Laura before he went away to Texas? A About a year I guess.

Q Did they have any children? A They had one.

Q Was it born before he went away or after he went away? A I disremember; they were here in town and I was on the river at the time.

Mr. Bell: Where did they live at? A They were living at Lotty Muldrow's I think.

Q Do you recollect when Will Richardson left here?

Will Richardson - 4.

A No, sir, I can't recollect it.

Q Wasn't it right after this Kerns-Clifton payment? A Yes, sir, it was shortly after the payment I think when he left.

Commissioner: ~~Lizzie~~ Richardson applies for the enrollment of ~~himself~~ her husband, William Richardson, and her child, Lizzie B. Richardson, two years of age. She avers that she was married to him about three years ago, and that she is a state woman and not entitled to enrollment herself. She avers that by said married she has one child for whom she applies. She avers that her husband is in the penitentiary, and cannot be present himself, being in the State of Texas. The name of William Richardson, her husband, cannot be found upon the authenticated roll of 1880, but he is identified upon the Kerns-Clifton roll and the Wallace roll according to page and number of the roll as indicated in the testimony. For particulars as to her husband's citizenship, see the testimony. She makes proof of her marriage but cannot fix the exact date. Consequently, William Richardson and his child, Lizzie B., will be listed for enrollment as Cherokee Freedmen on a doubtful card, awaiting further consideration of the Commission. It will be necessary for the applicant to file with the Commission satisfactory proof of the birth of said child, Lizzie B., and also, if possible, a marriage certificate giving the date of her marriage, she averring that the man Dogle who married her is still living at this time.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 27th of May, 1901.

W. H. McKinstry

Commissioner.

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Witness, I. I.
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Witness.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 28rd, 1901.

SUPPLEMENTAL TESTIMONY in D. 403.

Applicant and Cherokee Representativd both present.

SPENCER LANDRUM, called and sworn as a witness for the applicant by Commissioner C. R. Breekinridge, testified as follows:

Q What is your name? A Spencer Landrum.
Q How old are you? A. 28.
Q What is your post office? A Ketchum.
Q How long have you lived in the Cherokee Nation? A Ever since I was a boy about 12 or 15 years old.
Q Do you know a colored man named Will Richardson? A. Yes sir.
Q Do you know his wife? A. Yes sir.
Q What is her name? A. Latra Woodley, before he married her.
Q How long have you known her? A. About 10 years.
Q About how old a woman is she? A. 25.
Q Was she a girl, unmarried, when you first know her? A. Yes sir.
Q Was she ever married before she married Will Richardson? A. No sir.
Q Was Will Richardson ever married before she married him? A. No sir we raised him from a little boy, my father did.
Q About how old is he now? A. About 22 or 23.
Q Not over that? A. No sir.
Q Did he live all the time with your folks? A. His aunt partly raised him until he was about 10 years old and then we raised him.
Q Have you known him all that time? A Yes sir.
Q You would know then if he had ever married before? A He has not been married except to this woman.
Q Have he and this woman any children? A. Yes sir.
Q About how long has it been since he married her? A. They married the year right after the payment.
Q Strip payment? A Yes sir.
Q Where were they married? A. At my house.
Q Have they any children? A. None but this baby here.
Q How long had they been married before this child was born? A. A year or over.
Q Did you know them all the time ever since they were married? A. Yes sir, part of the time they lived with me after they were married and part of the time they lived with her mother.

By L. B. Bell, Cherokee Representative:

Q When did Bill Richardson leave here? A. He left here a while after the payment, I dont know just when he left, he had come to Vinita and it wasn't long after that I heard that he was gone.
Q He left here about the same year of the payment of the strip payment, didn't he? A. He got his money, Bill Davis helped him get it.
Q Did he leave here the same year of the payment? A. No sir quite a while after. The year of the payment he staid around me that year.
Q How long has he been gone? A. I dont know just how long Richardson has been gone—he has been gone—I guess near onto two years.
Q Hasn't he been gone 3 or 4 years? A No sir.

By Commission:

Q He is in the penitentiary now is he not? A. Yes sir, that is what I heard.

By L. B. Bell:

Q How long has he been in the pen? A I dont know.

Q Do you know what penitentiary he is in? A. In Texas somewhere.

By the Commission:

Q Where was he convicted? A. In Texas.

Q You say he lived with you ~~xxx~~ through the payment and a while after it was made? A. Yes sir.

Q And you say he married this woman a year after the payment? A. Yes sir.

Q In what time of the year was the payment? A. The payment was along in the spring—in March.

Q And he married this woman about a year after that did he? A. Yes sir.

Q Well now if he staid around your place and married this woman about a year after the payment, how long had he married this woman when he left? A. As near as I can recollect he and this woman were livingtogether about two years before he left.

Q Were they living together before the payment? A. No sir

Q Do you mean to say that they were living together two years after they were married at your house? A. Yes sir.

Q And was it at the end of those two years that he left? A Yes sir

Q How long has he been gone? A. I think he wst have been gone close on to two years, maybe a little longer than that.

Q When he left here, had he gotten into any trouble? A Not as I know of; he was here in Vinita when he left.

LAURA RICHARDSON, the applicant called and sworn by Com'r Breckinridge, testified as follows:

Q What is your name? A Laura Richardson.

Q What is the name of your husband? A. Will Richardson,

Q You made application for him a day or two ago—for one child Lizzie B. Richardson? A Yes sir this morning.

Q How long did you and your husband live together before he left the country? A. About a year, we married the same year of the payment.

Q What time of that year did you marry? A. About the 25th of October

Q How long after you married was it that this child was born? A. About a year I reckon, she was born on the 19th of August.

Q Of the August following your marriage? A Yes sir, in the next year.

Q You married in October of the year the payment was made? A Yes sir.

Q And this child was born in the next August? A Yes sir.

Q Have you seen your husband at all since he left you after your marriage? A No sir, he is in the pen.

Q That was about a year after he married you? A Yes sir.

Q Where was he convicted? A. Down in Texas.

Q Do you know what place in Texas? A. No I never was in Texas.

Q According to your present testimony, and according to the age you give for this child, the child was born more than a year after your husband left you—have you got the age of this child right? A. Oh stucks this here child was born in—I married in October and this child was born the next August.

Q That would make the child three and a half years old and you have given the age as two and a half years? A She will be three years old in August, the 19th day of August and on the 25th day of October I will be married four years.

Q Are you sure it is four years and not five years? A. It is four years; I cant count much and I dont know what year I married in but I know it will be four years in October.

Q Was this child born when your husband left you? A. No sir she was born afterwards—Before he left?—he was— it was a month old I believe before he left.

SPENCER LANDRUM recalled and examined by the Commission:

Q You say these people were married at your house? A Yes sir.
 Q Did they live at your house or on your place after they were married? A They would stay around—they lived with ~~my~~ mother.
 Q How far from your place? A. 12 or 14 miles.
 Q How long did you say they lived together after they were married? A As near as I can recollect, a couple of years or may be longer.
 Q Do you know if the child was born at the time Will Robinson left his wife? A. The child was born I believe afterwards.
 Q Do you know how long afterwards? A. I do not.

By Com'r Breckinridge—

The weight of the ~~testimony~~ present testimony which is more or less conflicting in its character, shows that this child was born about a year and one month after the husband left, the age of the child being given as two and a half years; after giving testimony to that effect, she amends her testimony by saying that it was born about a month before her husband left. A witness in this case contradicts that statement by saying it was born after he left her, but is unable to say how long after he left her when the child was born. It seems that the husband left his wife only once ~~after~~ and she states that she has never seen him since that time, he having gone to the State of Texas, apparently on a visit, and got into trouble, and is said to be somewhere down there in prison. The preponderance of the present testimony therefore indicates that the child is not legitimate and its only claim is through its father.

APPLICANT recalled and examined by Commissioner Breckinridge:

Q Do you claim to be a Cherokee Freedman of your own right? A No sir I married a Freedman.
 Q You are a state woman? A Yes sir.

ARCH LANDRUM, called and sworn as a witness for applicant, testified as follows: (By Com'r Breckinridge)

Q What is your name? A. Arch Landrum.
 Q How old are you? A. About 70.
 Q What is your post office? A. Keokuh.
 Q What district do you live in? A. Delaware.
 Q How long have you lived in the Cherokee Nation? A. Always.
 Q Do you know a colored man named Will Robinson? A Yes sir.
 Q Where is that man now? A. He is in Texas in jail.
 Q How long have you known that man? A. I partly raised him.
 Q About how old is he at this time? A He was a small chap when he came to my house.
 Q Was he born before the war broke out? A. Since the war.
 Q How long since the war? A. Directly after the war.
 Q He is somewhere near 30 is he? A Yes sir.
 Q Is he any kin to you? A My sister's child.

Q R

Q Do you know the name of his father? A. I dont know his father.
 Q Give me the name of his mother? A Caroline Ratliff.
 Q Is she alive now? A No sir, her husband killed her.
 Q Was she named Caroline Ratliff once? A Yes sir.
 Q Did she bear the name of Ratliff when she died? A Yes sir.
 Q How long has she been dead? A Quite a while.
 Q More than 20 years? A. I cant say, when they fetched this child to me it was 10 years old.
 Q Was his mother dead then? A Yes sir she was killed then
 Q Wasnt her name Ratliff at the time she was killed? A Yes sir.
 Q Was she killed before the roll of 1880 was made? A. I said o nos before I didnt know.
 Q Where was your sister during the war? A. She wasn't born
 Q Was she born in the war time? A. Yes sir.
 Q Was his mother a slave? A Yes sir.
 Q Who did she belong to? A The Ratliffs.
 Q Which one? A John R.
 Q Where did he live? A On Grand river.
 Q Was he a Cherokee citizen? A Yes sir.
 Q Did you and Caroline have the same mother? A Yes sir.
 Q Were you a slave during the war? A Yes sir.
 Q In the Cherokee Nation? A Yes sir.
 Q Where was Caroline born? A. I cant tell you exactly where she was born, my mother never left here and I did, I went to Kansas and my mother staid here.
 Q When did you get back from Kansas? A. In '85.
 Q Where was your mother then? A At Tahlequah.
 Q Where did your mother live from that time until she died? A. At Tahlequah and Fort Gibson and I moved her to where I am living.
 Q ~~Did you~~ Where did your mother die? A. Here in town.
 Q When? A A year ago.
 Q What was her name? A Winnie Ratliff.
 Q Did she always go by that name? A Yes sir.
 Q Was she a recognized Freedman of the Cherokee Nation? A Yes sir.
 Q Now this Will Robinson, did you know his wife? A Yes sir.
 Q Is this his wife standing here? A Yes sir, that is the woman he married.
 Q Do you know when he married her? A. Some time after the strip payment.
 Q Were you present at the wedding? A. No sir he married her at my son's house though.
 Q How far did you live from there? A A mile.
 Q Have you known this woman ever since she married her husband? A. Yes sir.
 Q What time of the year was she married in? A. I cant tell the days of the year, but I know they were married.
 Q How long did they live together after they married? A Quite a while, he would stay there some ~~in~~ times, and then x in town and backwards and forwards.
 Q How long did he keep that up before he went to Texas? A. quite a while.
 Q This woman has a child? A Yes sir.
 Q That child is by him is it? A. Yes sir.
 Q How do you know it is by him? A. I dont know positively, but she has been alone by me all the time and she has never married again she has never married any other man but him.
 Q Was that child born before Will Robinson left here? A. Yes sir, that child was born before Will left here as well as I can recollect
 Q Do you remember absolutely about it? A As well as I can recollect is that it was born before he left here.
 Q Were they living near you or far from you? A. They were living alone only about ten miles above me on Honey creek.
 Q Do you remember what year they were married in? A. No sir I cant tell you.
 Q Do you remember what year this child was born in? A. No sir I dont

The 1880 roll examined and the name of the applicant's husband's grandmother identified thereon as follows:

L.

Page 308 No. 2183, Winnie Ratcliffe, Delaware district.

Q How did Will Richardson get the name of Richardson if his mother was a Ratcliffe? A His father was a Richardson.

By L. B. Bell:

Q Didn't this Caroline Richardson marry a soldier down here at Fort Gibson? A Yes sir.

Q And went off with him? A Yes sir.

Q That was directly after the war, in '67 or '68? A Yes sir.

Q She was killed in Texas in '78 or '9? A Yes sir somewhere about there.

Q Do you know when this boy was brought back to you? A No sir, some time after she was killed though.

By Commissioner Breckinridge:

Q Was that soldier a colored man? A Yes sir.

Q He was a soldier at Fort Gibson was he? A. Yes sir.

Q When did she marry him? A. Some time after the war.

Q Had she married him before you got back from Kansas? A. After I got back.

Q How long did she live here in the Cherokee Nation after she married that soldier? A. I don't know.

Q What was the name of that soldier she married? A. I don't know.

Q Is he supposed to be the father of Will Robinson? A Yes sir.

Q Where was Will born, in Texas? A I don't know if he was born in Texas or in the Creek Nation, some say in the Creek Nation.

Q How long after your sister married before she went to Texas? A. I don't know exactly, she staid at Fort Gibson awhile and then went to the Creek Nation and then on to Texas.

Q Did she have any children before she went to Texas? A. I can't tell

Q How long after she went to Texas, before you heard of her being killed? A I never heard of it until they brought the child to me.

Q About how long? A Two or three years I guess, I can't tell how long, not until they brought the little child back to me.

By Com'r Breckinridge,-- This will also be filed as additional testimony in Cherokee Freedman D. Card #283, and attention is directed to the testimony relating to Will Robinson's mother Caroline, who married a colored man, a soldier at Fort Gibson after the war, and of her having gone to the Creek Nation and afterwards to the state of Texas where she was killed; and to the fact that Caroline Ratcliffe's mother, Winnie is identified on the roll of 1880 and is said to have died a few years ago in the Cherokee Nation.

APPLICANT RECALLED, and examined by Commissioner Breckinridge,--

Q Who did you stay with after you came to Vinita? A. Lettie Muldrow.

Q Was this child there while you were there? A. No sir.

Q How long did you stay at this woman's house? A ~~Somehow~~ Two or three months.

Q How long after you left there before this child was born? A. I went there in the winter, this child was born in August.

Q Where were you staying when your husband left you to go off on that visit from which he never came back? Were you staying with this woman Lettie then? A Yes sir.

Q Had you gone to Lettie's when he left you? A. I was staying there.

Q Where were you staying when he left you? A At Lettie's

Q What were you doing when you were staying there? A. Working--taking in washing.

in washing.

Q Hadn't your husband left you, and hadn't you gone there to make a living? A. He and I staid there all winter; I staid at aunt Lisa's after he went to Texas.

Q How long had you been married when you were staying at the house of this woman, Lettie? A I married in October—about a month I reckon I knew that I married and was home a long time and then came to town and lived here a while.

.....

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above case and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 30th of May, 1901 at Chelsea, I. T.

[Signature]

Commissioner.

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FD 413

CONTINUED TO THE FIVE

FILE

JUN 5 1901

CHINA COMPANY

SUPPLEMENTAL TESTIMONY.

F.-D. #403.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHICKSRA, I.T., JUNE 1st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Will Richardson, et al., as Cherokee Freedmen:

LIZZIE WOOTEN, being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Mr. A. S. McRea, Attorney for Applicants.
Mr. L. B. Bell, Cherokee Representative:

Q What is your name? A Lizzie Wooten.
Q What is your age? A I can't tell my age.
Q Well, about how old? A I don't know.
Q You are not a hundred? A No, sir.
Q Can't you guess? A No, sir.
Q You are over ten are you? A Yes, sir.
Q Well, can't you guess at it? A I put it in about 50.
Q What is your post office? A George Cibble post office, Indian Grove. (Grove.)

BY MR. McREA:

Q Mrs. Wooten, are you acquainted with Laura Richardson?
A Yes, sir.
Q Was Will Richardson her husband? A Yes, sir.
Q What relation is Laura Richardson to you? A She is my daughter, sir.
Q Was she and Will Richardson married? A Yes, sir.
Q When did they marry? A Well, I can't tell.
Q About how long? A About three years ago.
Q Were any children born to them? A Yes, sir.
Q How many? A Just one.
Q What was her name? A Her name is Lizzie Richardson.
Q Is that child living? A Yes, sir.
Q About how old is she? A Lacking two months being three years old.

BY COM'R NEEDLES:

Q How do you know that they were married? A Well because the wedding was at Arch Landrum's son's house.
Q Did you see them? A No, sir, but I got witness I was in Vinita.
Q You don't know whether they were married or not? A No, sir.
Q What was Will Richardson's wife's name? A Laura.
Q Is she a citizen? A No, sir, she is a state girl.

ARCH LANDRUM, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Arch Landrum.
Q What is your age? A About 70 years old.
Q What is your post office? A Ketchum.
Q Do you know Will Richardson? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q What is her name? A Laura Woodard.
Q Do you know whether they were ever married or not?
A They said they were married, I never seed them, they got married at my son's house, about two miles from me; I was not there.
Q About when was that? A I could not tell you about how long that has been.

Q Well, about how long ago? A I don't know, three or four, four or five years.

Q Who married them, do you know that? (No response.)

Q That is, who they say married them? (No response.)

Q Have they been living together as man and wife continuously?

A They are not living together now.

Q They are not living together now? A No, sir, he is in Texas, in Jail I guess.

Q How long did they live together? A They lived together a couple of years before he left.

BY MR. MORRIS:

Q Was any children born to Will Richardson and Laura during their wedded life together? A The child was born after he left.

Q How long has he been gone? A I could not tell you; he has been gone about three years, two or three.

Q What is the name of the child born to Will Richardson and Laura Richardson? A I forget the child's name now, I know it too.

Q Is its name Blanch? A No, sir.

Q Larus B.? A I don't know.

BY COM'R NEEDLES:

Q How long after he is left before this child was born?

A I could not tell you.

Q You don't know? A No, sir.

Q He has been gone about two years? A About two years as well as I recollect.

BY MR. HELL:

Q You know just about as much about this child being born as you do about the wedding? A Yes, sir.

LAURA RICHARDSON, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Laura Richardson.

Q Are you the wife of Will Richardson? A Yes, sir.

Q Mother of Lizzie B. Richardson? A Yes, sir.

BY MR. MORRIS:

Q Where were you and he married at? A Spencer Landrum's.

Q Cherokee Nation? A Yes, sir.

Q Were you married by a regular license? A No, we was not married by any regular license, Cherokee laws we was married by.

Q Cherokee laws wasn't in existence three years ago? A We married before it went out.

Q Now listen to me particularly, you testified that you had been married about three years ago? A Yes, sir.

Q Well the Cherokee laws expired since December 16th, 1895; were you married before December 16th, 1895? A Three years ago we was married.

Q Was there a license presented to the preacher? A No, sir.

Q You wasn't married by any regular license then? A No, sir, witnesses; witnesses all done shows that.

Q Now, here, I want you to speak out plainly; did you and he live together as man and wife, or were you regularly married?

A We was married at Spencer Landrum's house.

Q Well, name some persons that were there and eye-witnesses to the marriage? (No response.)

BY COM'R NEEDLES:

- Q How long after you were married to Will Richardson was this child born? A About two months I reckon.
Q After you married? A Yes, after he went away.
Q How long had you been married when the child was born?
A Just pretty near a year.
Q How he went away right after the strip payment didn't he?
A He went away along in the winter.
Q After the strip payment? A Yes, sir.
Q The strip payment was in '97, that was about four years ago; will he has been gone four years and this child only two years and a half old? A He won't be gone four years until next winter-until next winter.
Q Have you married since he went away? A No, sir.

MR. MOREA:

- Q I think we could get at it if she could tell how long she had been married when Will Richardson left; th4 child is nearly three years old? A We married along in the first of the fall and it born.
Q In the summer? A Next summer.
Q You were married in the fall of '97, is that it?
A We married after the strip payment.
Q

BY COM'R NEEDLES:

- Q That was '97? (No response.)

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J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rossen

Subscribed and sworn to before me this 4th day of June, 1901

[Signature]

Commissioner.

THE UNITED STATES OF AMERICA
DO hereby certify that
the following is a true and correct copy
of the original as the same appears
in the records of the Department of State.
IN WITNESS WHEREOF, I have hereunto set my hand
and the seal of the said Department at Washington,
this _____ day of _____, 19____.

Secretary of State

...the
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[illegible]

Cherokee Freedman-D-403.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, March 30, 1905.

In the matter of the application for the enrollment of
Will Richardson as a Cherokee Freedman.

COMMISSION.

Lewis T. Brown, attorney for applicant.

Cherokee Nation represented by Bell, Hastings & Davenport.

On March 17, 1905, the applicant, Will Richardson, was notified by registered mail that it would be necessary that he appear before this Commission and give further testimony in the matter of the application for the enrollment of himself and children. He was notified to appear on March 30, 1905, at the offices of the Commission in Muskogee, Indian Territory.

Now, on this day, March 30, 1905, the applicant appears by his attorney, Lewis T. Brown, and moves for a continuance in this case.

The Cherokee Nation offers no objection to a continuance, therefore, the case is continued to April 13, 1905.

COMMISSION TO THE FIVE CIVILIZED TRIBES

Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 30th. day of March, 1905, and that the above is a full and complete record of said proceedings had on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 1st. day of April, 1905.

Myron White
Notary Public.

C.F.D. 403

DEPARTMENT OF JUSTICE
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

FILED

NOV 21 1905

 COMMISSIONER

Cherokee Freedman D-210.
Cherokee Freedman D-403.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., NOVEMBER 16, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of DORA MILLER ET AL., as Cherokee Freedmen.

APPEARANCES:

For Applicants, J. J. Bulger.

For Cherokee Nation, J. S. Davenport, W. W. Hastings.

It appears from the records of this office that on November 3, 1905, the applicants, their attorney, and the attorneys for the Cherokee Nation were duly notified by letter that they would be permitted to appear before this office and introduce further testimony in this case, at which time the following proceedings were had:

DORA MILLER, being first duly sworn, testified as follows:

BY MR. BULGER:

- Q What is your name? A Dora Miller.
- Q Are you an applicant for enrollment as a Cherokee freedman?
- A Yes sir.
- Q Have you appeared before the Commission before this application?
- A Yes sir.
- Q I have a letter here addressed to you written by Commissioner Bixby requesting you to appear before the Commission and introduce testimony as to whether or not you were born prior or subsequent to the date of your mother's departure from the Cherokee Nation, have you any witnesses or do you know of any witnesses that knows exactly where you were born? A No sir, I don't, my aunt that knew she is dead.
- Q You may tell what you know about, what you have heard about it?
- A My aunt said I was born in the Cherokee Nation, the next year after they started from Fort Gibson.
- Q What was your father's name? A William Richardson.
- Q Your mother's name? A Carrie Richardson.
- Q What is the name of your grand mother, your mother's mother?
- A Winnie Ratliff.
- Q Was Winnie Ratliff a Cherokee freedman? A Yes sir.
- Q Is she identified upon any of the rolls of the Cherokee Nation?
- A Yes sir.
- Q Do you know what roll? A She is on all of them.
- Q Is she on the 1880 roll? A Yes sir.
- Q Have you a brother, Dora? A Yes sir.
- Q What is your brother's name? A Will Richardson.
- Q Is he older or younger than you? A Younger.
- Q How much? A I am a year and a half older.
- Q Do you know where he was born? A No sir, I don't.
- Q Where were you when you can first recollect, can you remember?
- A Fort Gibson.
- Q Do you remember your mother? A No sir, I don't.

- Q Did she die when you were young? A Yes sir, she got killed.
Q How old were you when she got killed? A I don't know exactly I guess I was going on about two years old.
Q Who raised you after that? A Polly Lee.
Q Who is she? A My aunt.
Q Was she a citizen of the Cherokee Nation? A Yes sir.
Q Is she recognized on the rolls of the Cherokee Nation? A Yes sir.
Q How long did you live with Polly Lee, until you were how old?
A My mother got killed and as soon as that my aunt come and got me and I lived with her until I was 17 years old.
Q Is she identified on the 1880 roll of Cherokee citizens? A I think she is, I am not sure.
Q Are you a resident of the Cherokee Nation now? A Yes sir.
Q Were you a resident of the Cherokee Nation prior to June 28, 1898?
A Yes sir.
Q Have you ever gone out of the Cherokee Nation with your effects and become a citizen of any other nation by naturalization? A No sir.

BY MR. DAVENPORT:

- Q How old are you now? A I don't know exactly how old I am, I suppose I am about 28 years old.
Q Your mother died in Texas did she? A Yes sir.
Q Do you know at what point? A No sir, I don't, because I was too little to know.
Q Your father and your mother went to Texas with the soldiers, did they not, or do you know anything about it? A I only know what I have been told.
Q You understood they went to Texas with the soldiers? A Yes sir, he was a soldier.
Q Did your father die in Texas? A He is not dead as I know of, he wasn't six years ago.
Q Where was he living the last time you heard from him? A Down below Coleman, Texas.
Q Do you know anything about Fort Richardson, Texas, or Fort Griffin?
A No sir.
Q Do you remember anything about Fort Concho? A No sir.
Q Do you remember when your brother Will was born? A No sir, I don't.
Q How long did you stay in Texas before you came back to the Territory after your mother's death? A I don't know how long my mother had been killed before my aunt brought us back, it wasn't long because I was yet a little bit of a girl.
Q How old were you when you came to the Cherokee Nation after your mother's death? A I don't know that.
Q You were a girl large enough to remember your aunt coming after you? A No sir, I don't remember when she came when I remember my aunt she had me and my brother at Fort Gibson. I don't know whether she come after me or somebody else, I couldn't say.
Q With whom did you first live after you came from Texas to the Cherokee Nation? A With my aunt at Fort Gibson.
Q That was Polly Lee? A Yes sir.
Q How long did you live with her? A Until I was 17 years old.
Q When did you leave your aunt at Fort Gibson? A I left my aunt here in Muskegee.
Q How long ago? A It has been a good while ago.
Q About how long? A I was 17 years old.
Q How long ago has that been since you left your aunt, Polly Lee? A Well I don't know, because she has been dead three years and a half.

- Q Did you live with her up until the time of her death? A No sir.
- Q How long had you been away from her home when she died? A I guess about four years.
- Q That would make then about 7 years since you left your Aunt Polly Lee's house? A Yes sir, I guess so.
- Q Where have you been living since that time? A Sometimes in Muskogee, and sometimes Fort Gibson and sometime Vinita, never had no certain place to live.
- Q I will ask you if the first time you ever came to your Aunt Polly Lee's, it was in 1896 during the Kern-Clifton enrollment? A When I come to my aunt?
- Q Yes? A I guess it was.
- Q Have you ever had a home in the Cherokee Nation from the time you can remember up to the year the Kern-Clifton roll was being made?
- A I lived here with Winnie Ratliff at Vinita.
- Q What years did you live there with Winnie Ratliff? A I don't know the years but I know I lived there with her.
- Q Was that after you were a great big girl or not? A I was a pretty good size I guess.
- Q Can't you remember what year it was? A No sir, I never tried to keep any account of the years until just those late years.
- Q How long since Winnie Ratliff left Vinita? A She has been dead 13 years.
- Q How long did you live with Winnie Ratliff? A I guess ever since I was about four and a half years old.
- Q When was it you lived with Polly Lee? A Polly Lee raised me, and after she come from Vinita, she come back to Muskogee, and I lived with my grand mother at Vinita.
- Q Where was your brother living, Will Richardson? A I don't know sometime in Spavinaw with his wife.
- Q When you can first remember? A Aunt Polly Lee had the charge of both of us.
- Q Where were you living when he lived in the house with Aunt Polly?
- A In that house back of Spence Stevens old place.
- Q What part of the Nation was that? A Cherokee Nation, Vinita.
- Q On the east side of the Katy track there? A Yes sir.
- Q How long did Will and you live there? A Until grandmother moved.
- Q How many years? A I don't know how many years it was.
- Q How large were you and Will when you went there? A We were little bit of tads.
- Q Who were your nearest neighbors when you lived there back of Spence Stevens? A Spence Stevens was one of our neighbors.
- Q Where did Mrs. Daniels live at that time? A She lived there.
- Q How near to you? A Not very far.
- Q Which way did she live from you? A Which way?
- Q Was it north, east, south, or west? A On the east side.
- Q Of where you lived? A Yes sir.
- Q What direction was the Spence Stevens house from where you lived? A Right across the alley.
- Q What direction? A West.
- Q Now you can't tell me what year you lived there at Vinita with your aunt or grandmother? A No sir, I can't, I don't know.
- Q Did you ever live there before the Kern-Clifton roll was made?
- A Yes sir, came there before 1880 and lived there until after my grand other died, then I come to Muskogee.
- Q What time was it you left there and came to Muskogee? A I don't know what year it was, we left there in the spring after my grand mother died in the winter.
- Q What year did she die? A Along about 1891, I think, something like that.

- Q Where was Lucian Buffington living there? A In that white house right there this side of Swain's old store.
- Q Will he probably know what time you lived there? A I guess he did, I cooked the first meal him and Nan Buffington ate after they were married.

ON BEHALF OF THE COMMISSIONER:

- Q You say you were born while your mother was on the road to Texas? A Yes sir.
- Q Did she go straight on from there to Texas? A No sir, they camped a couple of days until after she got better.
- Q Then did they go straight on to Texas? A I think so, I don't know.
- Q Did your mother live in Texas continuously from the time she arrived there until the time of her death? A I don't know that there.
- Q Do you know about how long it took her to go to Texas? A No sir, I don't.
- Q Were you travelling over land? A Yes sir.
- Q Is it your understanding that you went straight on through? A No sir, my aunt said they camped awhile.
- Q Outside of that two days? A I didn't say two days, I said they camped until she better, I don't know how long it was.
- Q Is it your understanding that she lived in Texas from the time she got there until she died? A Yes sir, there is where she got killed.
- Q How much older did you say you were than Will? A One year and a half older.
- Q Of the records show that he is about 7 years older than you is that a mistake? A Yes sir, it is.
- Q Where was Will born? A I don't know where Will was born.
- Q Where is it your understanding that Will was born? A In Texas.
- Q Did he come back to the Cherokee Nation when you did? A Yes sir.
- Q Do you know about how old you were then? A I guess he was about, I don't know whether he was a year old or not, he wasn't walking when she brought him back.
- Q Can you remember it? A No sir.
- Q Is Will's post office Grove? A Yes sir.
- Q Your post office is what? A Vinita.

BY MR. BULGER:

- Q What occupation did your father have, do you know? A He was with the soldiers, that is all I knew.
- Q Was he a soldier? A Yes sir.
- Q Was he taken as a soldier from Fort Gibson to Texas? A Yes sir.
- Q Did he remain a soldier until after your mother was killed? A The last account I heard of him he was still a soldier.
- Q How awhile ago you mentioned something about living with Aunt Winnie Ratliff, your grand mother? A Yes sir, we all lived in the same house together, that was her daughter.
- Q Pelly Lee was Winnie Ratliff's daughter? A Yes sir.
- Q Pelly Lee had the superintendency of you? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

- Q Has Will an attorney? A I don't know whether he has or not.
- Q Do you desire Louis T. Brown to represent you any more? A No sir, I guess Mr. Bulger and them know has my case.

Copies of this testimony will be filed with and made a part of the record in the matter of the application for the enrollment of William Richardson, C. F. D. 403.

WITNESSES SUBSCRIBED.

THOMAS R. GRAVES, being first duly sworn, testified as follows:

BY MR. DAVENPORT:

Q What is your name? A Thomas R. Graves.

Q What is your post office? A Muskogee.

Q How old are you? A 55 years old.

Q How long have you lived in Muskogee? A Been about 7 or 8 years.

Q Did you ever live at Fort Gibson? A Yes sir.

Q About what year? A The last time I went back there I think it was in '87 I think it was.

Q Except then at that time had you ever lived at Fort Gibson? A I soldiered there.

Q What years did you soldier there? A '72 and '73.

Q During that time and then after or about that time did you get acquainted with a colored man named William Richardson? A Yes sir he was sergeant in my regiment.

Q Do you know whether or not he had a wife? A Yes sir.

Q Do you know what her name was? A Carrie.

Q When you left Fort Gibson did William Richardson and his wife remain at Fort Gibson? A No sir. I left there in February, 1873, I think they all left there about the same time.

Q Where did you go? A To Fort Sill.

Q Did you see William Richardson and his wife at Fort Sill after you got there? A Yes sir, I think I can remember, I most forget, but it seems to me that after I left Fort Sill I went to Fort Richardson.

Q Where is that? A In Texas.

Q After you got there did you see William Richardson and his wife?

A I saw them at Fort Griffin.

Q How far was Fort Richardson from Fort Griffin? A About 70 some odd miles I think.

Q How long had it been from the time you left Fort Gibson until you saw them at Fort Griffin? A I think it was in '74.

Q And you had left Fort Gibson in 1873? A Yes sir.

Q Now when you left Fort Gibson in 1873, do you know whether or not they had any children born to them at that time? A No sir, I don't think they did.

Q Did they have any children when you first saw them at Fort Griffin?

A Yes sir.

Q How many do you know? A I think they had two.

Q How long did they stay at Fort Griffin, Texas, if you know?

A I think the company was ordered there somewhere along the last part of April from Fort Griffin to Fort Concho.

Q Now you said awhile ago you thought they had two children born when you saw them at Fort Griffin, do you know for certain whether they had two children born, you had seen them in 1873

and it was 1874? A I am not positive but I think one of them was born at Fort Sill and the other at Fort Griffin, I am not positive, one was born at Fort Griffin.

Q They lived at Fort Sill and then they went to Fort Griffin?

A They went from Gibson to Fort Sill and from there to Fort Griffin.

Q Where was Fort Sill at that time? A It was called in the Territory then, that is all I know.

Q Do you know what became of William Richardson and his wife? A No sir, all I know his wife died from the effects of a lick she got there at Fort Concho.

Q Lick from what? A By a fellow who robbed her there one night, she had a bed right side of the tent what she stayed in close up to the tent, he come and robbed the tent and struck her with the axe.

- Q Were you at Fort Concho at that time? A Yes sir, I was there at the time they arrested the man and brought him back.
- Q You were there, were you? A Yes sir, wasn't in the detail that went after him. They arrested him about 12 or 13 miles from Fort Sill toward Fort San Antonio.
- Q And Carrie Richardson then died at Fort Concho? A Yes sir, she died. I got discharged in '75 and I left there and her sister told me after that when she come there at Fort Gibson and brought these two children there with her, she told me Carrie died from the effects of that lick.
- Q Where is the father now, do you know? A No sir, I don't know where he is, we haven't seen him since '75.

BY MR. DULGER:

- Q You testified in this case on the 23rd day of May, 1902, didn't you? A Yes sir.
- Q Your testimony is quite extensive at that time, and at that time you said I was the man that arrested the man myself, you didn't say that? A No sir, I never made any such statement as that because I know I didn't do it. No sir, that is wrong.
- Q I will read this to you and see if it is true: "Q You were there when she was struck? A Yes sir, I was the man that arrested the man myself." A No sir, that last part is wrong, I never arrested him. I was there when she was struck, went down there that night, she was struck and saw her about ten minutes after she was struck.
- Q What year was this in? A '75, I am not sure now but I think it was '75.
- Q You say you knew these people at Fort Gibson before you went to Texas? A Yes sir, I knew Carrie well, she used to wash for me when I was in the company.
- Q You and Richardson were in the same regiment? A Yes sir, same regiment, but not the same company.
- Q Where was Richardson's home? A I don't know.
- Q You say both of your companies were detailed to go to Texas?
- A No sir, I left F Company at Fort Sill and my company was ordered to Fort Richardson.
- Q Lets get at it from Fort Gibson. Your company was ordered from Fort Gibson to Fort Sill? A Yes sir.
- Q In what year? A In February, 1874, we left Fort Gibson.
- Q When was Richardson's company ordered from Fort Gibson? A If I aint mistaken in May or June.
- Q What year? A Same year.
- Q 1874? A '74, '73 from Gibson.
- Q You were ordered from Gibson in 1873? A You understand me right, I said I left Fort Gibson in February, '73, went back to Sill and we left Fort Sill in '74 and went to Fort Richardson.
- Q Now your company, you were not in the same company with Richardson? A No sir, first I was in the band, then I was transferred from the band to L Company.
- Q How did Richardson's company and your company go in the same detail from Fort Gibson to Sill? A No sir.
- Q Did you go first or afterwards? A First.
- Q How long after you got to Fort Sill did you see Richardson, if at all? A I never saw him until they passed through Fort Richardson going from Fort Sill to Fort Griffin.
- Q You went directly from Fort Gibson to Sill? A Yes sir, and from Sill to Richardson.
- Q Did Richardson's company ever come to Fort Sill, you say your company left Fort Gibson in February, 1873 and went to Fort Sill, then after that sometime Richardson's company left Fort Gibson and went by Fort Sill to Fort Richardson? A Yes sir, and then stopped at Fort Richardson and camped there a day or two and

- went right on to Fort Griffin.
- Q What year was that? A That was in '74, if I mistake not, of course these things I have to kinder study over them.
- Q Then Richardson's company went from Fort Griffin to Fort Concho?
- A Yes sir.
- Q They were there in 1875? A Yes sir.
- Q And in 1875 Mrs. Richardson was struck with an axe and died from the effects of it? A Yes sir, they said she died from the effects of it, I know she was hit.
- Q How many children did she have then of her own? A Two.
- Q What were they? A A boy and girl.
- Q Which one was the older? A Carrie was the older, not Carrie but Dora.
- Q Then if you said in this testimony of May, 1902, that Will was the older, of the two, you were mistaken, were you? A I didn't say it, you must have read that wrong, I know Dora was born first, I am sure of that.
- Q In your testimony of May 23, 1902, you testified as follows:
"Q What was the first child's name? A Willie." "Q What year was it born? A Will was born if I am not mistaken it was either in I think it was '74, went say positive but I think it was '74."
"Q What year was the next child born in? A If I am not mistaken I think the next child was born along about the latter part of '76."
A Everything is right except that of Dora.
- Q You think it is a mistake? A I know it is a mistake.
- Q "Q Well you are as positive about that as you are about anything else you have testified to? A Well I tried to tell the truth as near as I can." If you testified that you think it is a mistake?
- A It is in regard to the ages, because Dora is the eldest.
- Q Were there any children born to Mrs. Richardson after she was hit with this axe? A Not as I know of, because I left from there in '75.
- Q She was hit before you left? A Yes sir, because I seed her after she was hit.
- Q Do you know where Dora Miller was born? A In Fort Sill.
- Q What year? A I don't know exactly what year, it must have been in '74, if I mistake not as near as I can recollect.
- Q And she is the older of the two children, and the other was born before 1875? A One was born at Fort Griffin, I was at Fort Richardson then.
- Q You say Richardson and his wife left Fort Gibson in '73 sometime in 1873? A Yes sir.
- Q After you had left it? A Yes sir, I left in February.
- Q They went directly from Fort Gibson to Fort Richardson? A To Fort Sill.
- Q Did they stop at Fort Sill? A Stopped there awhile, I don't know exactly how long, not over a day or so.
- Q And from there went where? A To Fort Richardson and stopped there awhile and then on to Fort Griffin, they were ordered from Sill to Griffin to take quarters there, we got ordered to Fort Richardson.
- Q How long does it take to go from Fort Gibson to Fort Sill, an army? A I think we made it, if I aint mistaken in I think we made it in a little over two days, maybe three, days, I know they made two camps after we left Fort Sill, we went in on the third day.
- Q Then you mean to testify that this man Richardson and his wife left Fort Gibson a short time after you left in 1873, went to Fort Sill, camped a few days, and Dora was born in Fort Sill in the year 1874? A Yes sir, somewhere along there, of course, I can't recollect all of these things but I am almost positive Dora was born at Fort Sill.

- Q Were you present when she was born? A No sir, I seen her there shortly afterwards, somewhere along the same year.
- Q Somewhere along the same year? A Yes sir.
- Q You don't know then that she was born in Fort Sill? A Yes sir, I do because I know one thing about it, she didn't have no children when she left Fort Gibson.
- Q How do you know she didn't? A Because wasn't I there.
- Q You first testified your company was detailed to go to Sill first? A Didn't I know her before she was married.
- Q Don't you know that there was time for a child to have been born from the time you left there until the time she left there? A I know, I am satisfied she was born at Fort Sill.
- Q You May 23, 1902, you were satisfied that you were the man that arrested this fellow that killed Mrs. Richardson? A No sir, I didn't make no such statement.
- Q You May 23, 1902, you were positive that Will was older of the two children and he was born in 1874? A Never made that statement, couldn't have made that statement because I know Dora is the oldest.
- Q Now these two statements that I have just read to you in regard to what you testified to here in the carbon copy of the testimony given by you on May 23, 1902, and this copy is sworn to be correct by the stenographer who took it, Arthur G. Croninger, who took it, and this is the oath: "Arthur G. Croninger, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case and that the foregoing is a true and correct transcript of his stenographic notes thereof." A It is a mistake as to the age, I know I never said that.
- Q Do you mean to testify that you knew that Dora Richardson was born in Fort Sill? A Yes sir, I am most positive she was born there.
- Q You didn't see her born there? A No sir.
- Q Did you see her the first time that you were there? A She had the child with her when they went through.
- Q About how old did the child appear to be? A I don't know, a baby, may be a month or two old.

BY MR. DAVENPORT:

- Q They passed through what place you mean Fort Richardson, Fort Sill or what? A Passed through Fort Richardson, because that is where I was stationed at.

BY MR. WILGER:

- Q You didn't see the child at Fort Sill then? A No sir.
- Q You mean that that child was born after you left Fort Gibson in 1873 and before that company in which Richardson was in reached Fort Richardson? A Yes sir.
- Q You don't know whether she was born in Fort Sill or any other Fort? A I know she wasn't born at Gibson or Fort Richardson or Fort Griffin.
- Q How do you know she wasn't born at Fort Gibson? A Because I am positive she wasn't born there.
- Q You remember you are under oath here, and we want this correct, I am going to stop this ----? A I am going to tell it just like I know.

BY MR. DAVENPORT:

- Q You were present at Fort Concho when the ~~xxxx~~ mother of these applicants were struck? A Yes sir.
- Q And you know she had the two children then? A Yes sir.

- Q And you know when she left Fort Gibson she didn't have any children? A Yes sir.
- Q The record shows that you arrested the man, you were present were you, or not, or what? A I seen him aft r he was arrested and brought him back there. He wasn't no soldier, he was a citizen.
- Q And if you testified in that testimony that Will was the oldest it was a mistake? A I didn't testify to that.
- Q Well you might have made the mistake in your testimony? A I know one thing, there was a mistake made.

WITNESS EXCUSED.

The attorneys for the applicants and the Cherokee Nation announce that they have no further testimony to introduce in this case, this case will be closed and a decision prepared upon the evidence heretofore introduced.

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George H. Lesaley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lesaley

Subscribed and sworn to before me this 20th day of November, 1905.

Myron White
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
WASHOON, I. T., DECEMBER 21, 1908.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of DORA MILLER ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, J. J. Bulger.
For Cherokee Nation, J. E. Davenport.

ON BEHALF OF COMMISSIONER:

There is offered on behalf of applicant a motion to re-
hear her case and the case of her brother, William Richardson, on the
ground that a mistake was made in her testimony of November 16, 1905,
with reference to the date of her birth.

MR. DAVENPORT:

The representatives of the Cherokee Nation object to the
granting of the motion to reopen the case at this time as they do
not think there was any mistake made in the record. The testimony
was taken and recorded.

ON BEHALF OF THE COMMISSIONER:

In view of the contention as made in the motion the same
will be granted and the testimony heard. The motion is filed herewith.

DORA MILLER, being first duly sworn, testified as follows:

BY MR. BULGER:

- Q What is your name? A Dora Miller.
Q What is your post office? A Vinita.
Q Did you testify in the matter of your application on November
16, 1905? A Yes sir.
Q The record shows that on that day in answer to this ques-
tion, "You may tell what you know about it, what you heard about
it," that is meaning about the place of your birth and you an-
swered, "My aunt said I was born in the Cherokee Nation the next
year after they started from Fort Gibson," that is the record in
your case, did you make that statement? A No sir, I didn't.
Q What did you say? A I said my aunt and then said I was either
born that night or the next morning, they had the camp that night,
I don't know what time in the day they started but they had the
camp that night.
Q Are you sure you said day? A Yes sir, I said day.
Q What causes you to remember you said day instead of year? A Be-
cause I wasn't liable to make no such mistake as that.
Q Were you cross examined by Mr. Davenport in regard to that
statement? A He asked me if I said a year or a day and I said
day, I didn't say any year.
Q He ask you any more about it? A He wanted to know how long we
stayed there and my aunt said 4 or 5 days.
Q Where? A Down there on Red River somewhere where they camped.

Q Is not it a fact your aunt said you were born in the Cherokee Nation the next year or next day? A She said the next day.

BY MR. DAVENPORT:

Q You were not born as I understand from your information when they left the point they were at in the Cherokee Nation for Fort Griffin, Texas? A I don't know anything about it only what she told me.

Q Well I say from your information you were not born until after they left what point you were in the Cherokee Nation? A I don't know what point they were in the Cherokee Nation but she said I was born the next day after they left.

Q Have you ever been informed where your father and mother were living when they started to Texas? A Fort Gibson.

Q And you were born as you claim your aunt says the next day after they left Fort Gibson? A Either that night or the next morning I don't know exactly.

Q Well they had started and travelled a day? A I don't know whether they had travelled or not.

Q They would have had to travel an very short piece of a day to have got gotten out of the Cherokee Nation going toward Texas from Fort Gibson? A I don't know.

Q You know how far the Cherokee Nation line is from Fort Gibson? A I don't know exactly.

Q Well it is less than eight miles? A I don't know, I never measured it.

Q Have you been to Fort Gibson? A Yes sir, once or twice.

Q How long have you lived in Muskogee? A Once in Muskogee 3 years.

Q You know about what the distance is from Muskogee to Fort Gibson? A No sir.

Q Is it 100 miles? A I don't know.

Q Is it 15 miles? A I don't know.

Q Is it a mile? A It is more than a mile.

Q You have been there? A Yes sir, back and forth on the train but I couldn't say how far it is.

Q You know Fort Gibson is in the Cherokee Nation? A Yes sir.

Q You know Muskogee is in the Creek Nation? A Yes sir.

Q And you know it is 8 miles? A I don't know that.

Q Have you ever rode from here to Fort Gibson on the train?

A Yes sir.

Q And you paid 25 cent fare? A No sir, I never went on the train.

Q Have you been ever there since you were a grown woman? A No sir, I haven't.

Q Have you ever been out to the Park on the River that has been built by Muskogee people? A No sir, I haven't.

Q Do you know where Bascom University is out here northeast of Muskogee? A No sir, I don't know nothing about them.

Q Have you seen them? A Yes sir.

Q And you know the line between the Cherokee and Creeks is between here and the river? A Yes sir.

Q And it is 4 or 5 miles out there? A No sir, I don't know that I never measured it.

Q You know that and it want take a day's travel to go from Fort Gibson going toward Texas to get out of the Cherokee Nation, don't you? A I couldn't say I never travelled it by the day and don't know anything about it.

Q How long have you been living in the Indian Territory? A Off and on ever since I have been big enough to recollect.

Q When you were off how long did you stay and when you were on where did you stay? A Here at Muskogee part of the time and at Vinita part of the time.

- Q Where do you live now? A Vinita.
Q How far is it to Vinita? A I don't know.
Q You come down this morning? A I never asked the man how far it is, I told him I wanted to go to Muskogee. When I want to go anywhere I pay the man the money and go on.
Q Do you know whether you are in the Cherokee Nation or Creek Nation? A I am in the Creek Nation.

WITNESSES EXCUSED.

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George W. Lesley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George W. Lesley

Subscribed and sworn to before me this 22nd day of December, 1905.

Edw. B. B. B.

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., MAY 31, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILL RICHARDSON, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, J. C. Starr appears in behalf of J. J. Bulger.
For Cherokee nation, James S. Davenport.

DORA MILLER, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

- Q What is your name? A Dora Miller.
Q How old are you? A 28.
Q What is your post office? A Vinita.
Q Are you an applicant for enrollment as a Cherokee freedman?
A Yes sir.
Q Have you a brother named Will Richardson? A Yes sir.
Q Do you know whether he is living? A I do not.
Q You don't know where he is? A No sir.
Q Do you know how many children he has? A Well I suppose he has got one, I couldn't say because I don't know.
Q How long since you have heard from him? A It has been about 5 years.
Q Did he have a child when he left the country? A He said he was expecting one, that is all I knew about it.
Q Was he married? A Yes sir.
Q What was his wife's name? A Laura.
Q Is she living? A No sir, she is dead.
Q How long has she been dead? A She has been dead over two years, I think now.
Q So far as you knew your brother only had one child? A Yes sir.
Q Do you know whether his wife Laura had any other children? A She had one. One more besides the one he claims.
Q Do you know the child's name? A No sir, I don't.
Q Do you know whether it is a boy or girl? A They say it is a boy, I have never seen it.
Q Do you know how soon that child was born after your brother left the country? A No sir, I don't. He told me he was expecting it in a month or two, that is all I knew about it.
Q Was that the elder or younger one? A The elder one. He don't know anything about this last one.
Q The elder child was born a month or so after he left? A Yes sir.
Q Then you understand his wife had another child after that?
A Yes sir.
Q You don't know anything about who its father is? A No sir, I don't.
Q Since your brother left about 5 years ago has he ever been back in the country? A If he has I have never seen him. I heard he was at South McAlester year before last, but I don't know whether it is so or not, I couldn't say.
Q That would be the year 1904? A Yes sir.

- Q Do you know where he went when he left? A To Denison.
Q Do you know whether he was ever in the penitentiary? A Yes sir, he went down there, and the last time I heard of him he was in the pen.
Q Was that the Texas State Penitentiary? A Yes sir.

BY MR. DAVENPORT:

- Q You don't know whether he had any child born or not? A No sir, I wasn't there.
Q And you don't know how long it was born after he left? A Only what he told me.
Q How old was the child when you saw her? A Two years old.
Q She had the second child then? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

- Q Where was Will born? A Will, I don't know.
Q Up until five years ago where had he lived all his life? A Here and Vinita, down to Tahlequah and over in the Spavinaw Hills.
Q Did he ever live outside of the Indian Territory? A Not as I knows of.
Q How were Will and Laura married? A Yes sir, that is what they say, I don't know.
Q They lived together as husband and wife? A Yes sir.
Q How long? A I don't know how long they lived together.
Q Did they keep house? A Yes sir, ever in the Spavinaw Hills.

W I T N E S S E X C U S E D .

This case is closed.

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Geo. H. Lesley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lesley

Subscribed and sworn to before me this 4th day of June, 1906.

Chas. E. Webster

Notary Public.

COPY.

Cherokee Freedmen D 403

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Will Richardson, et al., as Cherokee freedmen.

DECISION

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, on May 23, 1901, Laura Richardson appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of her husband, Will Richardson, and their minor child, Lissie Blanche Richardson, as Cherokee freedmen. Further proceedings in the matter of said application were had at Chelsea, Indian Territory, on June 1, 1901, and at Muskogee, Indian Territory, on March 30, 1905, and May 31, 1906. Copies of the testimony taken at Muskogee, Indian Territory, before the Commission to the Five Civilized Tribes on November 16, and December 21, 1905, in the matter of the application for the enrollment of Dora Miller, et al., as Cherokee freedmen, are filed herewith and made a part of the record herein. On October 27, 1902, there was filed with the Commission to the Five Civilized Tribes an affidavit showing the birth on October 17, 1902, of George Richardson, alleged to be the child of said Laura and Will Richardson. Said child was listed for enrollment with the said Will Richardson on Cherokee freedmen Card D 403 and his right to enrollment will be passed upon in this decision.

THE EVIDENCE IN THIS CASE SHOWS: That on February 11, 1867, one Carrie Richardson, nee Ratcliffe, since deceased, was a bona fide domiciled freedman citizen of the Cherokee Nation, and in the absence of proof to the contrary it will be presumed that she retained such citizenship until her death which occurred in Texas during the latter 70's. *Mitchell v. U. S.* 22 L. Ed. 584. *Morris v. Gilmer* 32 Th. 690. The evidence further shows that the principal applicant herein, Will Richardson, is the son of said Carrie Richardson, deceased, was born about the year 1876, and from shortly after his birth until the early part of the year 1898, resided continuously in the Cherokee Nation; that in the early part of the year 1898, he left the Cherokee Nation and after ample opportunity having been afforded it is not by satisfactory evidence established that he has since returned to the

Cherokee Nation or that he possessed on September 1, 1902, any right whatever, to enrollment as a Cherokee freedman. It is further shown that the said George Richardson was born to said Laura Richardson two or three years subsequent to the time said Will Richardson left the Cherokee Nation and it is not shown that he possesses or that he ever did possess any right to Cherokee freedman citizenship, hence the applications for the enrollment of Will and George Richardson come within the rulings of the Department in the cases of Eliza Bryant, et al. (I.T.D. 544-04), Ed Williams (I.T.D. 4239-04), William Rector (I.T.D. 1468-04), Minnie Duncan, et al. (I.T.D. 1470-04), Samantha Chambers, (I.T.D. 2296-04), Moses Ross, (I.T.D. 6056-04), Jane Looney, et al. (I.T.D. 6410, 12688-04), Florence Bratcher, (I.T.D. 12692-04) and Frankie Grinnett, (I.T.D. 17902-1905)

The evidence further shows that the minor applicant herein, Lissie Blanche Richardson, is a daughter of the said Will Richardson; that she was born in the Cherokee Nation August 19, 1898, shortly after her said father left the Cherokee Nation, and has continuously resided in said Nation since birth.

IT IS THEREFORE ORDERED AND ADJUDGED: That under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat. 495) Will Richardson and George Richardson are not entitled to enrollment as Cherokee freedmen and their application for enrollment as such is accordingly denied, and that Lissie Blanche Richardson is entitled to enrollment as a Cherokee freedman and her application for enrollment as such is accordingly granted.

SIGNED: Tams Dickey
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 21 1907

97MS

Wallace Roll (1889).

Office No.	Wallace No .	Name	Age	Sex	Residence
2841	863	Richardson, Dora	10	F	Tah. Dist
2842	864	" " Wm.	11	M	" "

-----:0:-----

I hereby certify that the foregoing is a true and correct copy of certain words and figures upon page 136 of the Wallace Roll, and that said roll is in the lawful custody of this office.

(Signed) Wm. A. Beall
Acting COMMISSIONER

Dated at Muskogee, Indian Territory,
this NOV 23 1905

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

} ss.

Proof of Service.

GUY PATTEN of lawful age, being duly sworn, says that
he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered
containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered
to W. W. HASTINGS
at MUSKOGEE, INDIAN TERRITORY, as shown by the receipt of the postmaster
hereto attached. Which said postoffice is shown by the records of the Attorneys for the Cherokee Nation
to be the postoffice of the party to whom said envelope was mailed.

Subscribed and sworn to before me this 2nd day of February, 1907.

Guy Patten
O. A. Smith
Notary Public.

E

LD 40

13

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Will Richardson,

Grove, I.T.

Cherokee F-D-403
Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

D F 403

IN RE
Application for Enrollment of
INFANT CHILD

George Richardson
as a citizen of

Cherokee Nation

Approved Oct 24 1902

C. R. Breckinridge
Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED OCT 27 1902

Tams Bixby,
Acting Chairman.

**DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.**

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of George Richardson (Here insert name of child.), born on the 17 day of October, 1901
Name of Father: Will Richardson a citizen of the Cherokee Nation.
Name of Mother: Laura Richardson a citizen of the Cherokee Nation.
adopted
Postoffice Grove L.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, Laura Richardson, on oath state that I am 25
years of age and a citizen by adoption, of the Cherokee Nation;
that I am the lawful wife of Will Richardson, who is a citizen, by
freedman, of the Cherokee Nation; that a male child was
(Male or Female.)
born to me on 17 day of October, 1901; that said child has been named
George Richardson, and is now living.

SEAL

WITNESSES TO MARK:

Lizzie X Richardson

(Must be Two Witnesses.) { W. M. Charlesworth
Geo. T. Hampton

Subscribed and sworn to before me this 20 day of October, 1902.

(SIGNED) W. M. Charlesworth

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, Lizzie Wooten, a , on oath state that I
attended on Mrs. Lizzie Richardson, wife of Will Richardson
on the 17 day of October, 1901; that there was born to her on said date a male
(Male or Female.)
child; that said child is now living and is said to have been named George Richardson.

SEAL

WITNESSES TO MARK:

Lizzie X Wooten

(Must be Two Witnesses.) { W. M. Charlesworth
Geo. T. Hampton

Subscribed and sworn to before me this 20 day of October, 1902.

(SIGNED) W. M. Charlesworth

Notary Public.

DEPARTMENT OF THE INTERIOR, WASHINGTON/

In the matter of the application for the enrollment of Will Richardson, et al., as Cherokee Freedman. C. F. D. 403.

REPLY OF APPLICANTS TO PROTEST OF THE CHEROKEE NATION.

Comes now the applicants in the above entitled case, and in reply to the protest of the Cherokee Nation respectfully submit, that so much of the Decision of the Commissioner to the Five Civilized Tribes dated January 28, 1907, as adjudges Lizzie Blanche Richardson, the minor child of Will Richardson, to be entitled to enrollment as a Cherokee Freedman is correct and should be affirmed by the Honorable Secretary of the Interior, and we further respectfully submit, that so much of the Decision of the Commissioner to the Five Civilized Tribes, of same date, which rejected the application for the enrollment of Will Richardson as a Cherokee Freedman, is erroneous and should be reversed; for reasons as follows:

We submit that the record in this case clearly shows, the facts to be those that the Honorable Commissioner found in his decision, in so far as the status of the applicants Lizzie Blanche Richardson is concerned to-wit; "That on February 11, 1867, one Garrie Richardson, nee Batcliffe since deceased, was a bona fide domicile Freedman Citizen of the Cherokee Nation, and in the absence of proof to the contrary it will be presumed that she retained such citizenship until her death which occurred in Texas during the latter 70's." The evidence herein further shows that the principal applicant herein, Will Richardson, is the son of said Garrie Richardson, deceased, was born about the year 1876, and from ~~soon~~ shortly after his birth until the early part of the year 1898, resided continuously in the Cherokee Nation". "The evidence further shows that the minor applicant herein, Lizzie Blanche Richardson, is a daughter of the said Will Richardson; that she was born in the Cherokee Nation August 19, 1898, shortly after her said father left the Cherokee Nation, and has continuously resided in said Nation since birth."

When we consider the testimony in this case, in regard to the birth of the said Lizzie Blanche Richardson, when we see that on May 23, 1901 Laura Richardson, the mother of the applicant in making application for the enrollment of said minor, gave its age at that time as two years and eight months, and that at that time the ~~father~~ father of said minor had been gone some two or three years, certainly then the finding of the

Commissioner, that said child was born on August 19, 1898, shortly after her said father Will Richardson had left the Cherokee Nation, and within a competent time to be his child, is correct. In his protest, the Attorney for the Cherokee Nation called attention to the fact, that in this case, Dora Miller, the sister of said Will Richardson, testified as follows. "How old was the child when you saw her? A. Two years old. Q. She had the second child then? A. Yes, sir."

Of what probative force this question and answer is, we can not see. The testimony shows that this second child was born some two or three years after ~~xxxxxxx~~ said Will Richardson left the Cherokee Nation, and in this respect, her statement would more nearly corroborate the testimony of the mother of said Lizzie Blanche Richardson, that Will Richardson was the father of the first child. But you will notice by the testimony of this same witness, Dora Miller, taken at Muskogee, I. T. on May 31, 1906, that beyond question, the applicant, Lizzie Blanche Richardson is the daughter of said Will Richardson, not only by the testimony of this witness, but by the admission of said father himself, as follows;

Q. Did he have a child when he left the country? (Referring to Will Richardson) A. He said he was expecting one, that is all I know about it.
Q. Was he married? A. Yes sir.
Q. What was his wife's name? A. Laura.
Q. Do you know how soon that child was born after your brother left the Country? A. No sir, I don't. He told me he was expecting it in a month or two, that is all I know about it.

We believe that the Department will concur with us, when we say that that the evidence clearly shows that Lizzie Blanche Richardson is the daughter of Will Richardson, as found in the Honorable Commissioner's Decision. This being true, then the only remaining question is the one raised by the Cherokee Nation, that Lizzie Blanche Richardson, even if a descendant of said Will Richardson, is not entitled to be enrolled as claiming through him, because he; The Attorney for the Cherokee Nation contends that the evidence shows that the mother of said Will Richardson married a Citizen of the ~~then~~ United States, and thereby abjured her Cherokee Citizenship. In answer to this contention, we think it only necessary to call the attention of the department to our briefs on this same point in the Cherokee Freedman enrollment case of Dora Miller, a sister of this said Will Richardson and a daughter of said Carrie Richardson, and we desire to further call attention to Departmental letter of December 8, 1906 (D. C. 54122- 1906.) (I. T. D. 18684-1906)

by which was affirmed the decision of the Commissioner to the Five Civilized Tribes granting the enrollment of said Dora Miller, a sister of said Will Richardson, both of whom are the children of the said Carrie Richardson, nee Hatchiffe.

Beyond question, then, we submit that the applicant, Lizzie Blanche Richardson is entitled to be enrolled as a Freedman Citizen of the Cherokee Nation, as found in the Commissioner's decision.

With reference to the applicant, Will Richardson, we submit that he is ^{clearly} ~~certainly~~ entitled to be enrolled. The applicant, Dora Miller, his sister, and a daughter of the same mother and father, was enrolled by the Commissioner to the Five Civilized Tribes, and said decision affirmed by the Honorable Secretary of the Interior, as above stated in the Departmental letter above referred to. The facts in both their cases being the same, with the exception that there is little if any proof that said Will Richardson was alive on September 1, 1902. We submit, that for this reason, he should not be denied enrollment. The testimony tends to show that it is the understanding of the people, his family, that he was or now is in some penitentiary in the State of Texas. If this be true, and he should afterwards appear in the Cherokee Nation, if he were denied enrollment a great injustice would have been done him. The testimony of said Dora Miller, a witness, and his sister also shows that she heard of him being in South Mo. Callister, Indian Territory, in the year of 1904, thus tending to show that he was alive on September 1, 1902. We submit that if his sister, Dora Miller is entitled to be enrolled as a Cherokee Freedman, that certainly, Will Richardson is also entitled, and that if he is enrolled, that no harm can result, for when the time comes for him to select his allotment, or his heirs, then if they fail to show that he actually was alive on September 1, 1902, the Commissioner will not allow said allotment to be selected; while if he is denied enrollment, and he afterwards does appear or is found to have been alive on said date, an irreparable injury will have been done him.

We concur with the Commissioner in that part of his decision rejecting the application for the enrollment of George Richardson.

Respectfully submitted,


Attorneys for Applicants.

IN RE

Application for Enrollment of
INFANT CHILD

Lizzie B. Richardson
as a citizen of

---Cherokee----- Nation

Approved... June 1st 1901

T. B. Needles
Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED JUN 1 1901

Tams Bixby

Acting Chairman

**DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.**

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Lizzie B. Richardson, born on the 19th day of August, 1898
(Here insert name of child.)

Name of Father: Will Richardson a citizen of the Cherokee Nation.

Name of Mother: Laura Richardson a citizen of the U. S. Nation.

Postoffice Grove Ind Ter

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Laura Richardson, on oath state that I am 24
years of age and a citizen by U. S. Nation;

that I am the lawful wife of Will Richardson, who is a citizen, by

adoption of the Cherokee Nation; that a Female child was
(Male or Female.)

born to me on 19th day of August, 1898; that said child has been named

Lizzie B. Richardson, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.) { Florence Love
Dora Richardson

her
Laura X Richardson
mark

SEAL

Subscribed and sworn to before me this 8th day of May, 1901

My commission exp April 15, 1903 (signed) G. F. Bailey

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Lizzie Wooden, a midwife, on oath state that I

attended on Mrs. Laura Richardson, wife of Will Richardson

on the 19th day of August, 1898; that there was born to her on said date a female
(Male or Female.)

child; that said child is now living and is said to have been named Lizzie B. Richardson

her
Lizzie X Wooden
mark

WITNESSES TO MARK:

(Must be Two Witnesses.) { Florence Love
Dora Richardson

Subscribed and sworn to before me this 8th day of May, 1901

SEAL

(SIGNED) G. F. Bailey

Notary Public.

(C O P Y)

Northern Dist. }
Ind. Territory }

Grove, April 14th 1903

Personally appeared before me a Notary Public in and for said Dist. and Territory, Elisabeth Wooten, who after being duly sworn, declares as follows: that she is about 56 years old- that her post office is Grove- Ind. Territory- that she is the mother of Laura Richardson, and that said Laura Richardson died on the 6th day of February, 1903, at her house, and left 2 children one named George Richardson whose Father's name was Will Richardson- My Daughters right name was Laura- the Notary made a mistake when he wrote Lizzie.

her
Elisabeth X Wooten
mark

Witness to Mark
Charles H. Corey
David Pearson

Subscribed and sworn to the 14th day of
April, A. D. 1903.

T. S. Ransen, Notary Public.

7B.

J. J. L. 131

r

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 23 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN

Date May 23, 1911
 Post Office Swainsboro, Ga.
 District Delaware

1. Name Will Richardson Age ✓
 Owner's name _____ Citizenship ✓
 Year 1890 Page 111 No. 2895 District _____

Parents:
 Father William Richardson Citizenship Colored
 Mother Marion Bailey Citizenship "

2. Name of wife _____ Age 20
 Owner's name _____ Citizenship _____
 Year _____ Page _____ No. _____ District _____

Parents:
 Father _____ Citizenship _____
 Mother _____ Citizenship _____

Names of Children:

No.	Year	Page	No.	Dist.
1. <u>William B. Richardson</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>	<u>✓</u>
4. _____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____
6. _____	_____	_____	_____	_____
7. _____	_____	_____	_____	_____
8. _____	_____	_____	_____	_____
9. _____	_____	_____	_____	_____
10. _____	_____	_____	_____	_____
11. _____	_____	_____	_____	_____
12. _____	_____	_____	_____	_____

Application made by William B. Richardson Stenographer B. C. Jones

Will Richardson

Marion Bailey, born 1890, No 2895, Raleigh Ga.
Marion Bailey Richardson

No 9. Birth certificate required
No 9. Proof of marriage of parents required

COMMISSIONERS
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee F.D-403

ALLISON I. AYERSWORTH,
NOTARY PUBLIC

Muskogee, Indian Territory, October 27, 1902.

Will Richardson,
Grove, Indian Territory.

Dear Sir:-

The Commission is in receipt of birth affidavit in the matter of the application for the enrollment, as a Cherokee Freedman, of George Richardson, infant child of yourself and Laura Richardson. This affidavit is not in correct form for the reason that the signatures by mark of the mother and the midwife are witnessed as an ordinary witness by the notary, before whom these affidavits were executed.

The Commission requires that all signatures by mark be witnessed by two persons other than the notary taking the acknowledgment. You are requested to furnish the Commission with a new affidavit executed in accordance with the above suggestions.

Respectfully,

C. R. Breckinridge

Commissioner in Charge.

Enc. 1 B.C.

COMMISSIONERS:
HARRY L. DAWES.
TAMM BIRBY.
THOMAS B. NEEDLES.
C. R. BRICKNORRIDGE.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee P.D-403

ALLISON L. AVLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, January 7, 1903.

Mrs. Laura Richardson,
Grove, Indian Territory.

Dear Madam:-

The Commission is in receipt of birth affidavit in the matter of the application for the enrollment, as a Cherokee Freedman, of George Richardson, infant child of yourself and Will Richardson.

This affidavit is not correct in form for the reason that your name is shown in the body of the affidavit as Laura Richardson, while the signature appears as Lizzie Richardson. The records show that in your testimony before the Commission, in the matter of your application for the enrollment of your husband and child, you gave your name as Laura Richardson.

An affidavit filled out in accordance with the above suggestions, is herewith enclosed you to be executed before a notary public and returned to the Commission.

Respectfully,

Acting Chairman.

Enc. M-9

COMMISSIONERS:
TAMM DIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING.

Cherokee Freedmen
D-403.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, September 10, 1903.

Laura Richardson,

Grove, Indian Territory.

Dear Madam:

In the matter of the application for the enrollment of Will Richardson, et al., as Cherokee Freedmen, you are hereby advised that further testimony is required as to whether his mother, Caroline Ratley, returned to and was residing in the Cherokee Nation on July 19, 1866, or within six months thereafter, and also as to his residence in the Cherokee Nation since his birth.

You are further advised that the Commission will be at Vinita, Indian Territory, on Tuesday, September 22, 1903, for the purpose of hearing additional testimony in Cherokee Freedmen doubtful cases, and you are directed to appear before the Commission on that date and introduce testimony covering the points above mentioned.

Respectfully,


Chairman.

COPY.

O. F. D. 403.

Muskogee, Indian Territory, March 17, 1905.

Will Richardson,

c/o T. S. Rensen,

Grove, Indian Territory.

Dear Sir:

In the matter of your application for the enrollment of yourself and your children, Lizzie B. and George Richardson, as Cherokee Freedmen, you are advised that before the Commission can render a final decision in this case it will be necessary that further testimony be introduced, showing your residence since your removal to the Cherokee Nation, and what property rights you have had in said nation, since your removal thereto. It will also be necessary to have further testimony tending to show the parentage of the child, George Richardson, and a corrected affidavit as to the birth of said child. The matter of the birth affidavit can be attended to when you appear before the Commission.

You are, therefore, hereby directed to appear before the Commission, at its offices in Muskogee, Indian Territory, at nine o'clock A. M., Thursday, March 30, 1905, and introduce testimony touching the points above mentioned. This matter should receive your immediate attention, as on the above date your case will be taken up for final consideration.

Respectfully,

(SIGNED)

Jame Bixby.

Chairman.

Register:

COPY.

C.F.D.403.

Muskogee, Indian Territory, March 17, 1905.

Bell, Hastings & Davenport,

Attorneys for Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of Will Richardson and his children, Lizzie B. and George Richardson, as Cherokee Freedmen, you are advised that before the Commission can render a final decision in this case, it will be necessary that further testimony be introduced showing their residence since their removal to the Cherokee Nation, and what property they have had in said nation since their removal thereto.

It will also be necessary to have further testimony tending to show the parentage of the child, George Richardson.

Said applicant has this day been directed to appear before the Commission, at its offices in Muskogee, Indian Territory, at nine o'clock A. M., Thursday, March 30, 1905, and introduce testimony touching the points above mentioned.

Respectfully,

(SIGNED) *Tame Fixby.*
Chairman.

COPY.

C.F.D. 403.

Muskogee, Indian Territory, March 17, 1905.

Louis T. Brown,

Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Will Richardson and his children, Lizzie B. and George Richardson, as Cherokee Freedmen, you are advised that before the Commission can render a final decision in said case, it will be necessary that further testimony be introduced showing their residence since their removal to the Cherokee Nation, and what property rights they have had in said nation since their removal thereto.

It will also be necessary to have further testimony tending to show the parentage of the child, George Richardson, and a correct affidavit as to the birth of said child.

Said applicants have this day been directed to appear before this Commission, at its offices in Muskogee, Indian Territory, at nine o'clock, A. M., on Thursday, March 30, 1905, and introduce testimony touching the points above mentioned.

This matter should receive your attention, as on the above date said case will be taken up for final consideration.

Respectfully,

(SIGNED).

Tams Bixby.

Chairman.

Cherokee Freedmen

COPY

D-403

Muskogee, Indian Territory, October 20, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation.

Muskogee, Indian Territory.

Gentlemen:

In connection with the application of Will Richardson for the enrollment of himself and children as Cherokee freedmen, you are advised that before a decision can be rendered in this case it will be necessary that further testimony be introduced as to whether or not the principal applicant was born prior or subsequent to the date of his mother's departure from the Cherokee Nation.

Said Will Richardson has this day been notified to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday, November 2, 1906, and introduce testimony as above indicated. The Cherokee Nation will be permitted to appear on that date and introduce any testimony it may desire in this case.

Respectfully,

Tame Blaby
Commissioner.

Cherokee Freedmen

COPY

D-403.

Muskogee, Indian Territory, October 20, 1905.

Will Richardson,

Grove, Indian Territory.

Dear Sir:

In connection with your application for the enrollment of yourself and children as Cherokee freedmen you are advised that before a decision can be rendered in your case it will be necessary that further testimony be introduced as to whether or not you were born prior or subsequent to the date of your mother's departure from the Cherokee Nation.

You are, therefore, hereby notified to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday, November 2, 1905, and introduce testimony as above indicated. The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

Respectfully,

LS
Register

Tama Bixby
Commissioner.

Cherokee Freedmen

COPY.

D-403.

Muskogee, Indian Territory, November 3, 1905.

William Richardson,

Grove, Indian Territory.

Dear Sir:

On October 20, 1905, you were advised that your Cherokee freedmen enrollment case would be taken up for hearing at nine o'clock A. M., on Thursday, November 2, 1905, at which time you were directed to appear before the offices of the Commissioner to the Five Civilized Tribes for the purpose of introducing further testimony in your case. You failed to appear, and you are hereby notified that you will again be given an opportunity to introduce testimony as indicated in this office's letter of October 20, at nine o'clock A. M., on Thursday, November 16, 1905.

The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in your case.

Respectfully,

(SIGNED)

Tamr Bixby.
Commissioner.

LS
Register

COPY.

Cherokee Freedmen
D-403

Muskogee, Indian Territory, December 2, 1904

Will Richardson,

Grove, Indian Territory.

Dear Sir:

In the matter of your application for the enrollment of yourself and your children, Lizzie B. and George Richardson, as Cherokee freedmen, you are advised that before the Commission can render a final decision in this case it will be necessary that further testimony be introduced showing your residence since your removal to the Cherokee Nation and what property rights you have had in said nation since your removal thereto. It will also be necessary to have further testimony tending to show the parentage of the child George Richardson, and a corrected affidavit as to the birth of said child. The matter of the birth affidavit can be attended to when you appear before the Commission.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Thursday, December 22, 1904, and introduce testimony touching the points above mentioned. This

matter should receive your attention, as on the above date
your case will be taken up for final consideration.

Respectfully,

(SIGNED) *Tams Dixby*
Chairman

Register.

Cherokee Freedmen

COPY.

D-403.

Muskogee, Indian Territory, November 3, 1905.

William Richardson,

Grove, Indian Territory.

Dear Sir:

On October 20, 1905, you were advised that your Cherokee freedmen enrollment case would be taken up for hearing at nine o'clock A. M., on Thursday, November 2, 1905, at which time you were directed to appear before the offices of the Commissioner to the Five Civilized Tribes for the purpose of introducing further testimony in your case. You failed to appear, and you are hereby notified that you will again be given an opportunity to introduce testimony as indicated in this office's letter of October 20, at nine o'clock A. M., on Thursday, November 16, 1905.

The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in your case.

Respectfully,

(SIGNED):

Tame Dixby.
Commissioner.

LS
Register

Cherokee
F D 210 et al.

Muskogee, Indian Territory, January 3, 1906.

J. J. Bulger,
Attorney for Dora Miller et al.,
Vinita, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental proceedings of December 21, 1905, in the matter of the application for the enrollment of Dora Miller et al., as Cherokee freedmen.

Respectfully,

Incl. GL-54.
GHL.

Commissioner.

Cherokee
F D 210 et al.

Muskogee, Indian Territory, January 3, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony of December 21, 1905, in the matter of the application for the enrollment of Dora Miller, et al., Cherokee freedman D 210 et al. There is also inclosed a copy of supplemental testimony of December 7, 1905, in the matter of the application for the enrollment of John W. Lawrence et al., Cherokee D 1628 et al.

Respectfully,

Incl. GL-53.
GHL

Commissioner.

D. C. 13264.

J.W.G.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D. 5478-1906.

April 6, 1906.

LRS

The Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

Referring to your letter of February 10, 1906,
which was forwarded by the Indian Office on March 23, 1906
(Land. 14437-1906), requesting the date of the departure of
Troop F, 10th Regiment of United States Cavalry from Fort
Gibson, Indian Territory, to Fort Griffin, Texas, and of
Troop L, of the same regiment from Fort Gibson, Indian Ter-
ritory, to Fort Sill, Oklahoma, you are advised that the
Department requested said information from the Secretary of
War on March 27, 1906 (I.T.D. 4844-1906), and on March 30,
1906, the Secretary of War transmitted the endorsement of
the Military Secretary, dated March 29, 1906, wherein it
is stated:

It appears from the official records that neither
Troop F nor Troop L, 10th United States Cavalry, was
stationed at Fort Gibson, Indian Territory, at any time
between 1870 and 1875.

The official records show that Troop B, 10th Cavalry, arrived at Port Gibson, Indian Territory, from Fort Sill, Indian Territory July 5, 1872, and left that post to return to Fort Sill April 21, 1873; and that Troop H, 10th Cavalry, arrived at Port Gibson, Indian Territory, August 18, 1872, and left for Fort Sill April 21, 1873.

There were no troops stationed at Port Gibson between September 25, 1871, and July 5, 1872.

Respectfully,

Thos. Ryan,

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

Cherokee Freedmen

D-403.

Muskogee, Indian Territory, May 17, 1906.

Laura Richardson,

Grove, Indian Territory.

Dear Madam:

In connection with your application for the enrollment of your husband, Will Richardson, and minor children, Lizzie B. and George Richardson, as Cherokee freedmen, you are advised that before their right to enrollment can be determined it will be necessary that further testimony be introduced as to the continued residence in the Cherokee Nation of Will Richardson, and as to the paternity of said children.

You are, therefore, hereby notified to appear before the offices of the Commissioner on Thursday, May 31, 1906, and introduce testimony as above indicated. The Cherokee Nation will be permitted to appear on that day and introduce such testimony as it desires in this case.

Respectfully,

LS
Register

Acting Commissioner.

Cherokee Freedmen

D-403.

Muskogee, Indian Territory, May 17, 1906.

Laura Richardson,

Grove, Indian Territory.

Dear Madam:

In connection with your application for the enrollment of your husband, Will Richardson, and minor children, Lizzie R. and George Richardson, as Cherokee freedmen, you are advised that before their right to enrollment can be determined it will be necessary that further testimony be introduced as to the continued residence in the Cherokee Nation of Will Richardson, and as to the paternity of said children.

You are, therefore, hereby notified to appear before the offices of the Commissioner on Thursday, May 31, 1906, and introduce testimony as above indicated. The Cherokee Nation will be permitted to appear on that day and introduce such testimony as it desires in this case.

Respectfully,

LS
Register

Acting Commissioner.

Cherokee Freedmen

D-403.

Muskogee, Indian Territory, May 17, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In connection with the application of Laura Richardson for the enrollment of her husband, Will Richardson, and minor children, Lizzie B. and George Richardson, as Cherokee freedmen, you are advised that before their right to enrollment can be determined it will be necessary that further testimony be introduced as to the continued residence in the Cherokee Nation of Will Richardson, and as to the paternity of said children.

Laura Richardson has this day been notified to appear before the offices of the Commissioner on Thursday, May 31, 1906, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that day and introduce such testimony in this case as it may desire.

Respectfully,

LS

Acting Commissioner.

Cherokee Freedmen

D-403.

Muskogee, Indian Territory, May 17, 1906.

Roll, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In connection with the application of Laura Richardson for the enrollment of her husband, Will Richardson, and minor children, Lizzie B. and George Richardson, as Cherokee freedmen, you are advised that before their right to enrollment can be determined it will be necessary that further testimony be introduced as to the continued residence in the Cherokee Nation of Will Richardson, and as to the paternity of said children.

Laura Richardson has this day been notified to appear before the offices of the Commissioner on Thursday, May 31, 1906, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that day and introduce such testimony in this case as it may desire.

Respectfully,

LS

Acting Commissioner.

Cherokee Freedmen

D-403.

Muskogee, Indian Territory, May 17, 1906.

J. J. Bulger,

Attorney for Will Richardson, et al.,

Vinita, Indian Territory.

Dear Sir:

In connection with the application for the enrollment of Will, Lizzie B. and George Richardson as Cherokee freedmen, you are advised that before their right to enrollment can be determined it will be necessary that further testimony be introduced as to the continued residence in the Cherokee Nation of Will Richardson, and as to the paternity of Lizzie B. and George Richardson.

Laura Richardson has this day been notified to appear before the offices of the Commissioner on Thursday, May 31, 1906, and introduce testimony as above indicated. The Cherokee Nation will also be present on that day and introduce such testimony in the case as it may desire.

Respectfully,

LS

Acting Commissioner.

Cherokee Freedmen

D-403.

Muskogee, Indian Territory, May 17, 1906.

J. J. Fulger,

Attorney for Will Richardson, et al.,

Vinita, Indian Territory.

Dear Sir:

In connection with the application for the enrollment of Will, Lizzie B. and George Richardson as Cherokee freedmen, you are advised that before their right to enrollment can be determined it will be necessary that further testimony be introduced as to the continued residence in the Cherokee Nation of Will Richardson, and as to the paternity of Lizzie B. and George Richardson.

Laura Richardson has this day been notified to appear before the offices of the Commissioner on Thursday, May 31, 1906, and introduce testimony as above indicated. The Cherokee Nation will also be present on that day and introduce such testimony in the case as it may desire.

Respectfully,

LS

Acting Commissioner.

Cherokee Freedmen
R 400 et al.

Muskogee, Indian Territory, May 28, 1906

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by attorneys for applicants in the Cherokee freedmen enrollment cases of Joseph Brown and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were denied by the Department in said letter.

Respectfully,

IMB

Commissioner

Cherokee Freedmen
R 400 et al.

Muskogee, Indian Territory, May 28, 1906

Blue & Bulger,

Attorneys for Joseph Brown et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by you, in the Cherokee Freedmen enrollment cases of Joseph Brown, and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were dismissed by the Department in said letter.

Respectfully,

LMB

Commissioner

Encl. B-93

ORDER IN REPLY TO THE FOLLOWING:
Cherokee freedman
D-403

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 28, 1906.

Will Richardson,
Grove, Indian Territory.

Dear Sir:

You are hereby advised that the motion filed
September 7, 1905, by your attorneys for review in your
Cherokee freedman enrollment case was dismissed by the
Department May 2, 1906.

Respectfully,

Wm. O. Beall

Acting Commissioner.

WMP

Cherokee
F D 403

Muskogee, Indian Territory, June 5, 1906.

J. J. Bulger,

Attorney for Will Richardson, et al.,
Baxter Springs, Kansas.

Dear Sir:

There is inclosed herewith a copy of supplemental proceedings in the matter of the application for the enrollment of Will Richardson, et al., as Cherokee freedmen, taken at Muskogee, Indian Territory, May 31, 1906.

Respectfully,

Incl. GL-5.
GHL

Commissioner.

Cherokee
F D 403.

Muskogee, Indian Territory, June 5, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental proceedings in the matter of the application for the enrollment of Will Richardson, et al., as Cherokee freedmen, taken at Muskogee, Indian Territory, May 31, 1906.

Respectfully,

Incl. GL-6.
GHL.

Commissioner.

Muskogee, Indian Territory, January 28, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the application for the enrollment of Will Richardson, et al., as Cherokee freedmen, together with the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, denying the application for the enrollment of Will and George Richardson, and granting the application for the enrollment of Lizzie Blanche Richard as Cherokee freedmen.

There is also inclosed a schedule containing the name of the said Lizzie Blanche Richardson, No. 4219, and in the event of the approval of the Commissioner's decision enrolling said applicant, the approval of this schedule is recommended.

Respectfully,

Encl. HJ-30
HJC

Commissioner

Through the Commissioner
of Indian Affairs.

Cherokee v.
D-403.

Muskogee, Indian Territory, January 28, 1907.

Starr & Patten,

Attorneys for Will Richardson, et al.,

Vinita, Indian Territory,

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, denying the application for the enrollment of Will and George Richardson, and granting the application for the enrollment of Lissie Blanche Richardson as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior, for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl.HJ-28
HJC

Commissioner.

Cherokee F.
D-403.

Muskogee, Indian Territory, January 28, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, denying the application for the enrollment of Will and George Richardson, and granting the application for the enrollment of Lissie Blanche Richardson as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. H-27
HJC

Commissioner.

REFER IN REPLY TO THE FOLLOWING:

Cherokee P.

D-493.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, January 28, 1907.

Will Richardson,
Grove, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, denying the application for the enrollment of yourself and George Richardson, and granting the application for the enrollment of Lizzie Blanche Richardson as Cherokee freedmen. Your attorneys, Starr & Patten, Vinita, Indian Territory, have heretofore been furnished a copy of the record of proceedings had in the case, and there has this day been forwarded them a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Commissioner.

Encl.HJ-29
HJC
Register.

Muskogee, Indian Territory, January 31, 1907

The Honorable,

the secretary of the Interior.

Sir:

Referring to the decision of the Commissioner to the Five Civilized Tribes transmitted January 28, 1907, refusing the application for the enrollment of Will Richardson and his son, George Richardson, and granting the application for the enrollment of Lissie Blanche Richardson, as Cherokee freedmen, there is enclosed a protest of the Cherokee Nation against the action of the Commissioner granting the application for the enrollment of Lissie Blanche Richardson as a Cherokee freedman.

Respectfully,

Through the Commissioner
of Indian Affairs.

Encl. B-77

Commissioner

Muskogee, Indian Territory, January 31, 1907

The Honorable,

the Secretary of the Interior.

Sir:

Referring to the decision of the Commissioner to the Five Civilized Tribes transmitted January 26, 1907, refusing the application for the enrollment of Will Richardson and his son, George Richardson, and granting the application for the enrollment of Lizzie Blanche Richardson, as Cherokee freedmen, there is enclosed a protest of the Cherokee Nation against the action of the Commissioner granting the application for the enrollment of Lizzie Blanche Richardson as a Cherokee freedman.

Respectfully,

Through the Commissioner
of Indian Affairs.

Encl. B-77

Commissioner

LAND
11677-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON

February 16, 1907.

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

With Office letter of February 6, 1907 there was transmitted to the Department the record in the case of William Richardson, et al., including the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, denying the application for the enrollment of William Richardson, and his son, George Richardson, and granting the application for the enrollment of Lissie Blanche Richardson, as Cherokee Freedmen. I now have the honor to transmit herewith communication from the Commissioner to the Five Civilized Tribes, dated January 21, 1907, enclosing a protest of the Cherokee Nation against the enrollment of Lissie Blanche Richardson as a Cherokee Freedman.

Very respectfully,

G. F. Larrabee

Acting Commissioner.

RBM-LC

J.F.Jr.

DEPARTMENT OF THE INTERIOR,

D.C.10697-1907.

WASHINGTON.

I.T.D.3888-1907.

S.P.

L.R.S.

February 20, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes, ,
Muskogee, Indian Territory.

Sir:

On February 16, 1907 (Land 11677-07), the Indian Office transmitted your report dated January 31, 1907, forwarding for departmental consideration a protest of the Cherokee Nation against the action of the commissioner in granting the application for the enrolment of Lissie Blanche Richardson as a Cherokee freedman.

The Department has considered said protest in connection with the record in the case and it does not consider that a sufficient showing is made therein in view of the testimony presented in the case which would warrant the setting aside of departmental decision of February 11, 1907.

Said protest is accordingly denied and the papers have been sent to the Indian Office, together with a carbon copy hereof.

Respectfully,

Thos Ryan

First Assistant Secretary.

1 incl.
5 inc. to Ind. Of.
A.F.Mc
2-21-07

Cherokee F.D.

403

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of Departmental letter, dated February 20, 1907, denying a protest filed by you against the decision of the Commissioner in granting the application for the enrollment of Lizzie Blanche Richardson as a Cherokee freedman.

Respectfully,

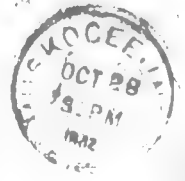
SIGNED *Tams*

Commissioner.

Enc I-213

RPI

4-2-403



Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.
OFFICIAL BUSINESS.
Penalty for private use, \$300.

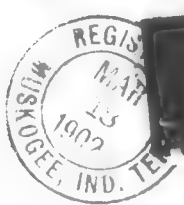
Richardson

Will Richardson,



Not a letter

Grove, Indian Territory.



Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.
OFFICIAL BUSINESS.
Penalty for private use, \$300.

5/5

Ref to writer
can not be found

4130
661

Mr. Will Richardson,
Grove, Indian Territory.

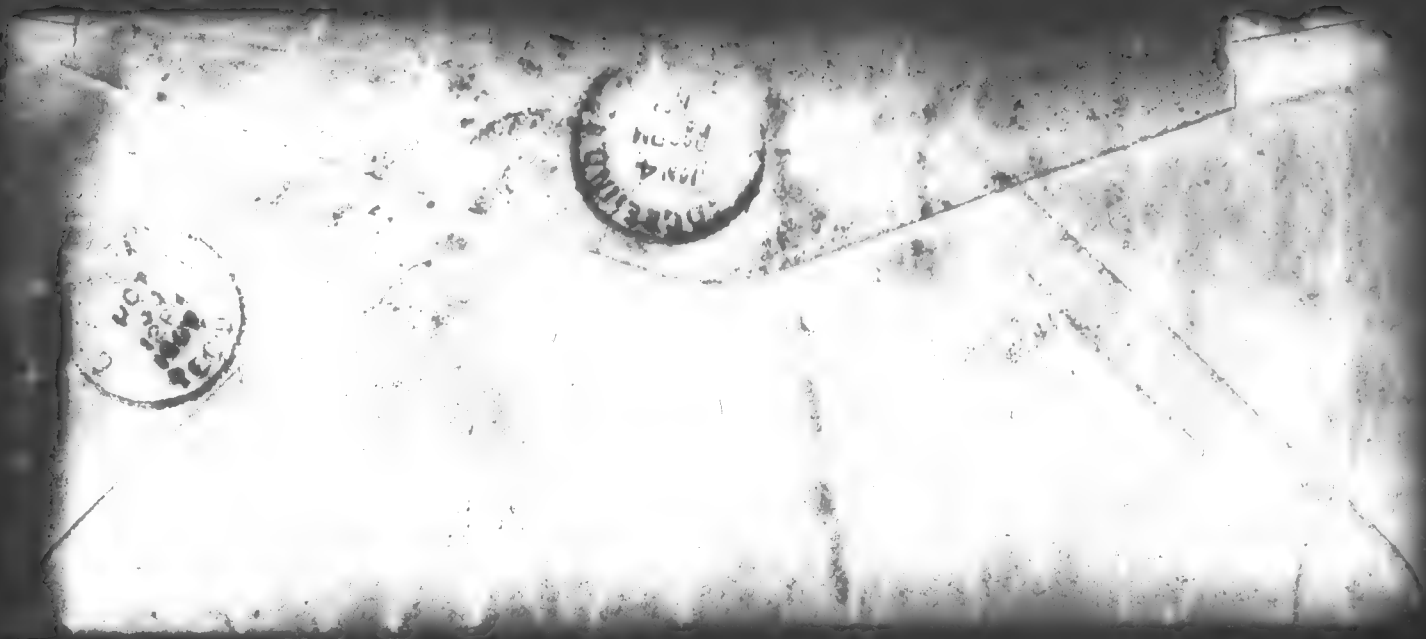
Department of the Interior,
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.



Reg 11 95-95-

Will Richardson,

Grove, Indian Territory.



Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

Oct. 14-03.

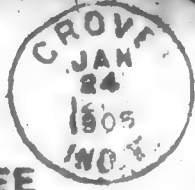
12977

Nov. # 18/18

W. H. Callahan

Will Richardson,

Grove, Indian Territory.



REGISTERED
MUSKOGEE, IND. T.

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.



Reg # 209
210.

Will Richardson,

Grove, Indian Territory.

Unclaimed 1311

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

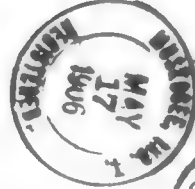
Will Richardson

Reg # 81/81

22805

Laura Richardson,

Grove, Indian Territory.



6081

UNCLAIMED

R. W.

C 7.3-403

General office Cherokee Div.

Advised that further testimony
is necessary in support of appli-
cation for enrollment.

Laura Alderson,
Grove, Indian Territory.



Wm. H. White
Not Public

Department of the Interior
Bureau of Indian Affairs
Washington, D.C.
May 10, 1903.
For private use, \$300.

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

35403

Reg# $\frac{219}{220}$

Unclaimed.

William Richardson,
Grove, Indian Territory.

Returned to Writer.



Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

35403

Will Richardson,
Grove, Ind. Ter.

UNCLAIMED



Cher. Fr. R. 886

Trans. from Cher. Fr. D. 489

Cher. Fr. R. 886

Exhibit 10 Cherokee Freedman No 429, Nancy Curly

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 21, 1901.

In the matter of the application of Joe Lynch for the enrollment of himself and wife and five children as Cherokee Freedmen; being sworn and examined by Commissioner Brockbridge, he testified as follows:

- Q Give me your name? A Joe Lynch.
Q How old are you? A I guess about 60 years old.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Delaware.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A Yes sir, wife.
Q Any children? A Yes sir.
Q How many? A I have got the names and ages. (Produces paper)
Q You have six children under 21 years of age have you? A Yes sir.
Q The oldest one of these six is Vinny? A Yes sir.
Q Are any of this six that we are talking about married? A No sir.
Q How long have you lived in the Cherokee Nation? A All my life, bred and born here.
Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
Q Give me the name of your father? A I don't know him, I never did see him.
Q Give me the name of your mother? A I don't know her, but she was named Vinny; but she is dead.
Q Been dead many years? A Yes sir.
Q To whom did you belong before the war? A Joe Lynch.
Q He was a Cherokee citizen? A Yes sir.
Q You were his slave at the beginning of the war? A Yes sir.
Q Give me the name of your wife? A Sophia.
Q How old is your wife? A I guess she is about 45 years old.
Q When were you and she married? A I couldn't say when we did marry, hardly.
Q Well, how long ago? A Yes sir.
Q Before any of these children were born? A Yes sir.
Q She must be more than 45? A She must be more than that.
Q Is she the mother of your oldest child? A Yes, sir.
Q That child is 32? A She must be older than that then I guess.
Q Maybe about 50 isn't she? A Yes.
Q You know the name of her father? A No sir.
Q Did you know the name of her mother? A Yes sir.
Q What is it? A Her mother was named Chaney Ross, she is dead.
Q Has she been dead very many years? A Yes sir.
Q More than 20 years? A She died time the war was going on, I think.
Q To whom did your wife belong? A Belonged to Susan Ross.
Q She was a Cherokee citizen? A Yes, sir.
Q And your wife was a slave in the Cherokee Nation when the war started? A Yes sir.
Q Now these six children for whom you apply, the oldest one is named Vina? A Yes sir.
Q That child is 19 years old, isn't she? A Yes sir.
Q Then Eliza is that the next one? A Yes sir.
Q She is 18 years old, isn't she? A Yes sir.
Q Cynthia Jane, that's the next one isn't it? A Yes sir.
Q She is 16 years old? A Yes sir.
Q Then comes Randolph, is that it? A Yes sir.
Q Randolph is 15, is that right? A Yes sir.
Q Then comes Ruth? A Yes sir.
Q She is 13 isn't she? A Yes sir.
Q Then comes Jackson, he is 11 isn't he? A Yes sir.

Q And that's your last one? A Yes sir.
Q Are these children all living now? A Yes sir.
Q Are you on the 1880 roll? A No sir.
Q None of your family on the roll of 1880? A No sir.
1880 authenticated roll of citizens of the Cherokee Nation
examined and applicants not found;
1893 census roll of citizens of the Cherokee Nation
examined and applicants not found.
Q None of your family are on the 1893 roll? A No sir.
Q Did you draw Strip money for yourself and family at the big
payments? A No sir, I drew at the first payment.
Q Then none of you are on the Kerne-Clifton roll? A No sir.
Kerne-Clifton pay-roll of citizens of the Cherokee Nation
examined and applicants not found.
Wallace roll of citizens of the Cherokee Nation examined
and applicants identified as follows:
Page 123 #2584 Joseph Lynch, Delaware District;
Page 123 #2585 Sophia Lynch, Delaware Dist;
Page 123 #2586 Vina Lynch, Delaware Dist.

Com'r to roll clerk: What is the last one you have got there?
A Yes sir.

Q Why are you not on the roll of 1880? A Well sir, I couldn't
tell you how come I wasn't on.
Q Neither you or your wife, did you apply to have yourself put
on that roll? A Yes sir.
Q And they wouldn't put you on, either one of you? A No sir.
Q Did they tell you why? A No sir.
Q Well then none of you are on the roll of 1880? A No sir, I
guess not.
Q Do you know the reason of that? A No sir.
Q Why did they refuse to put you on the Kerne-Clifton roll, all of
you? A I couldn't tell you that, only when I asked them they said
it was just through an oversight.
Q Where did you go during the war? A I went to Kansas.
Q Did your wife go with you? A No sir.
Q Did she ever go to Kansas with you? A Yes sir, she went after I
and I think, or a little before; she was a little bit of a girl.
Q I just want to know whether she went to Kansas with you?
A No sir.
Q Where did you marry her? A In Kansas.
Q You have got a child named Hester? A Yes sir.
Q Where was that child born? A They were all born and raised here.
Q I asked you about Hester, was Hester born in the Cherokee Nation?
A Hester wasn't, Hester was my baby.
Q Well, where was Hester born? A I believe she was --
Q Born in Kansas? A Yes sir.
Q Hester is 32 years old now? Is she? A I guess so, I don't know
the age myself.
Q That is the age you have got on this manuscript? A Yes, I got
a fellow to put the age down; just had to make a guess at it.
Q Where was Nancy born? A Down here in the Cherokee Nation. Out
here on the Delaware, right where I am living at.
Q All these other children where were they born? A All of them
was born right there.
Q In the Cherokee Nation? A Yes, sir.
Q Your wife didn't go to Kansas when you went there? A No sir.
Q You were married to her when you went to Kansas? A No sir.
Q When did she go to Kansas, when did you see her up there?
A I saw her there along in '63.
Q Where did you see her? A I saw her there about Allen County,
up there.

Q How long did you know her before you and she got married?
 A I guess I must have known her about 6 or 7 years I expect.
 Q Did you know her before she went to Kansas? A I knowed her
 people, they lived right down below there --
 Q I am asking you if you know her? A Yes, I knew her: she was
 just a little bit of a girl then.
 Q You knew her before she went to Kansas? A Yes sir.
 Q How long had she been in Kansas before you married her, how long
 was it after she got there before you married her? A I guess she
 had been there, I expect about four years.
 Q She had been there about four years and then you and she married
 there? A Yes sir.
 Q How old was your child, Hester, when you and your wife came back
 to the Cherokee Nation? A Oh she was just a young thing, just a
 little bit of a baby.
 Q Only a few months old? A Yes sir.
 Q How long after you married your wife before Hester was born?
 A It wasn't long.
 Q More than a year? A No sir, I guess it must have been about
 nine months before she was born I guess.
 Q As you and your wife came back to the Cherokee Nation then about
 a year after you were married? A Yes sir.
 Q Because Hester was born and was a baby some months old? A Yes
 sir.

It now being the noon hour the Commission adjourns until
 1 o'clock pm.

M. D. Green, being first duly sworn, states that as stenographer
 to the Commission to the Five Civilized Tribes he correctly recorded
 the testimony and proceedings in this case and that the foregoing is a
 true and complete transcript of his stenographic notes thereof.

Signed, M. D. Green,

Subscribed and sworn to before me this May 22, 1901.

Signed, C. R. Breckinridge,
 Commissioner.

It now being the hour of one o'clock P.M. May 22d 1901, and
 the Commission having been called to order, the application for the
 enrollment of Joe Lynch et al. is continued as follows:

W. W. Hastings for the Cherokee Nation.
 A. S. Mofa, attorney for the applicants.
 C. R. Breckinridge, Commissioner presiding.
 Chas. von Weise, Stenographer.

JOE LYNCH, the applicant herein, re-called and examined as
 follows by Commissioner C. R. Breckinridge:

Q I understand that you desire to make a correction in your testi-
 mony given in this morning? A Yes sir.

Q When you testified that your child Hester was born in Kansas?

A Yes, sir, I made a mistake there.

Q You testified, as I recollect it, that the child Hester was born
 in Kansas and was a few months old when you came from Kansas after
 the war and came into the Cherokee Nation? A Yes sir, but she was
 born in the Cherokee Nation, all of them was born here, I just made
 a mistake this morning.

Q Did you bring your wife back from Kansas? A Yes sir.

Q When you first came back from Kansas, did you bring your wife
 with you? A Yes sir.

Q Do you mean to say that you don't remember if she brought a suck-
 ling babe with her? A Well when I first come I first come by myself.

horseback and didn't bring her with me.

By Com'r Breckinridge: I want to warn you that you have made some very positive statements in regard to your coming here after the war and that when you testified this morning you said that you were positive that when you first came back to the Cherokee Nation from Kansas after the war that you brought your wife with you and that she had a baby in her arms at the time that was born in Kansas just a few months before you started, and now you come and desire to change all that and I simply desire to warn you that you are under oath and that you are to consider well what you intend to swear to for if you do not swear the truth you are liable to get yourself into trouble, very serious trouble in fact.

Q You say now that when you came here the first time from Kansas directly after the war, that you came by yourself on horseback and that your wife was not with you then? A No sir she was not.

Q And you also desire to correct your statement of this morning wherein you stated that when you and your wife came down here from Kansas, she had a baby in her arms? A No sir she did not, I made a mistake in that, the baby was born since then, she was born in the Cherokee Nation.

Q You say now you first came by yourself? A Yes sir on horseback to look out a location.

Q When did you come here by yourself, and where did you come to?

A On Grand river pretty close to where I am living now, and located me a place.

Q When was that? A November of '66.

Q Did you come down there then to prepare a place for yourself and family? A Yes sir, for me and my wife.

Q What work did you do there that time? A Located me a claim and laid the foundation for me a house.

Q What else did you do? A Never did nothing else then.

Q How long did you stay there before you went back to Kansas?

A Not very long.

Q Did you stay there until Spring? A No sir, maybe a week or two.

Q And then what did you do? A Then I goes back and gets my woman and comes down and builds my house.

Q What time was it you say you first come there? A It was in November.

Q How did you bring your wife when you come with her? A In a wagon.

Q Just you and your wife? A Yes sir.

Q Nobody else? A No sir.

Q Did you go right back to Kansas and get your wife and bring her right straight back here? A Yes sir.

Q Your daughter Vina is married is she? A Yes sir.

Q So you made a mistake there also when you said this morning that the children you applied for were all under age and living with you at this time? A Yes sir I made a mistake there, Vina is married, she has not been married very long and I had forgotten that she was.

By Com'r Breckinridge: So the application for her will not be continued, as she will have to apply for herself or be applied for by her husband.

By A. S. McRea, attorney for the applicant:

Q Mr. Lynch, you say that you were born in the Cherokee Nation?

A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where to? A Kansas.

Q When did you return to the Cherokee Nation? A In '66 in November.

Q Where did you first come to the Cherokee Nation when you returned the first time from Kansas? A I located right where I am living now, on the river in Delaware district in the Territory.

Q In the Cherokee Nation? A Yes sir.

Q Who were your owners before the war? A Joe Lynch.

Q You say that you laid the foundation of your house preparatory to

the moving of your family, your wife, from Kansas, when you came here that first time by yourself on horse-back and then went back and got your family? A Yes sir went back for my woman.

Q How long had it been before you returned to the Cherokee Nation after you got back to Kansas that time? A I cant tell just exactly - I dont know just how long - it has been so long that I had done forget just the exact time.

Q Was it in December of the same year or in the January of the next year, in 1867 - was it in December of '67 or in January of '68, in other words, who long did you stay in Kansas before you came back to the Cherokee Nation after you had been here and located your claim and laid the foundation of your house preparatory to moving your family here, and then went back up there? A I cant think I was in there more than two months before I returned here with my wife.

Q Have you lived in the Cherokee Nation continuously ever since that time that you came back here with your wife? A Yes sir.

Q Did you and your wife belong to the same owners before the war?

A No sir, my wife belonged to Susan Ross.

Q Were you and she married before the war? A No sir.

Q When were you and she married? A After the war.

C After the war closed? A Yes sir after the war closed.

Q Is your name on any of the authenticated roll of the Cherokee Nation? A No, sir, not been able to find it on that, but it is on the Wallace roll.

Q Can you tell why it is not on the roll of 1880? A No sir I dont know.

Q Did you make application for enrollment then? A Yes sir I applied as a Cherokee Freedman when the census takers come round to the houses then.

Q Did you get on the roll then? A I cant tell if they put me on then or not, if they did they scratched me off again.

Q Was you rejected that you knew of? A No sir.

Q You say you have lived continuously in the Cherokee Nation ever since November of December of 1866 up until now? A Yes sir I has lived here ever since then till now.

By W. V. Hastings, Cherokee Representative:

Q You were in here before dinner were you not? A Yes sir.

Q And you testified then that you brought your family with you when you came back from Kansas - your wife and one child? A No sir I did not bring any child, I made a mistake then; I dont know what I did say then.

Q You have found out since going to dinner and talking with your lawyer, that the age of your oldest child would be enough to have her born here, in other words, that she could not be the age you give in for her, and be a month or two old at the time you say you come back from Kansas - in '66? A No sir I haint talked it none, I just made a mistake in giving in the ages, I remembers now that that child was not borned then, she was borned after we got here.

Q Wasn't that oldest child born in Kansas before you come back to the Cherokee Nation? A No sir, it wasn't.

Q You testified that it was didn't you before the Kerns-Clifton Commission some five years ago? A No sir not of it being born in Kansas.

Q Didn't you swear then that you brought that child back with you when you and your wife come to the Cherokee Nation from Kansas right after the war? A No sir I dont know what I testified there.

Q Didn't you testify before the Kerns-Clifton Commission that you had this one child when you left Kansas after the war to come to the Cherokee Nation and that you brought it with you? A No sir I never told them fellers that.

Q You never swore that? A No sir.

Q Where did you live before the war? A Well sir, I lived in

Saline district with Lon Lynch's father.

Q You have seen Lon Lynch growed here, the one that lives on Grand river, haven't you? A Yes, sir, that is my young master.

Q He was living there when you came back wasn't he? A No sir, I was in Flint.

Q Didn't he live in Flint? A I don't know where he is at then.

Q Was he living in Flint? A I was not in Saline.

Q Didn't you come back to the old Joe Lynch place? A No sir, I come back and located on this side of the river from the old place.

Q Didn't you swear before the James-Whitten Commission that you come back to the old Lynch place? A No sir I never.

Q You swear going back to the old place then? A I told you that I never went there.

Q Who were your neighbors there? A Daniel Lindman.

Q Who else? A Davis.

Q What Davis? A I don't know nothing but Davis, he was a full blood Indian.

Q Where did George Clark live? A Well George Clark lived away up there on Grand river.

Q How far from you? A Well I don't know exactly, I can't tell how many miles it was.

Q He wasn't your near neighbor then? A No sir.

Q Didn't you testify before that he was? A No sir.

Q Do you know Watt West? A Yes sir.

Q How far did he live from you then? A I never used him then.

Q How long after that before you saw him? A I don't know exactly.

Q How far does he live from you now? A 15 or 16 miles as near as I can tell.

Q Where did you make your first crop after you got back from Kansas?

A The first crop I made was on a little bit of land I had rented from a full blood Indian.

Q What was his name? A Joe Dirtwater.

Q Was that in Saline or Delaware? A That was in Saline.

Q How far from where you now live? A 4 or 5 miles, I don't know exactly.

Q Do you live in Delaware district now? A Yes sir.

Q How long did you stay in Saline, before you moved to Delaware district? A I never lived there at all, I just rented a piece of ground there and went over on horse back and worked it.

Q So you have lived practically on the same place that you now live ever since your return from Kansas? A Yes sir.

ALLEN LYNCH, called and sworn by Commissioner Breckinridge, testified as a witness on the part of the applicant:

Examined by Commissioner Breckinridge:

Q What is your name? A Allen Lynch.

Q How old are you? A 61 about.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A Might say all my life.

Q Do you know the applicant there, Joe Lynch? A Yes sir.

Q How long have you known him? A We were born and raised on the same place.

Q You have known him practically all your life then? A Yes sir.

Q Did you know him during the war? A Yes sir.

Q Where did you see him during the war? A We were soldiers together and were both in the same regiment.

Q When were you discharged after the war? A In '65.

Q Where were you discharged? A At Leavenworth.

Q When did you see him after that? A We came to Neosho Falls together in '65 and I left him there in that winter, reckon about Christmas and came back here to the Nation.

Q Are Neosho Falls in Missouri? A No sir in Kansas.

Q Where did you locate here in the Nation on coming from Neosho Falls? A On the east side of Grandriver.

Q How long did you stay at that place? A Until some time in March.

Q Of what year? A '66.

Q On the east side of Grand river? A Yes sir.

Q Then where did you go? A Moved right down here to the mouth of this creek here.

Q Gabb'n creek? A No sir, where Bull creek runs into Gabb'n.

Q How long did you stay there? A Raised a crop there, a crop of corn, and staid there until June or July.

Q You say you staid on the east side of Grand river until March of 1866? A That was when I first moved over here.

Q You spoke of going first, when you got back, to a place on the east side of Grand river, when did you get there? A The first day of February '66.

Q How long did you stay there? A 7 or 8 days.

Q And then you come over here to Bull Creek, is that right? A Yes sir.

Q How long did you stay at this place at the mouth of the Creek?

A We staid there until along in June or July.

Q Of what year? A '66.

Q Then what did you do? A We moved down to what was called the old Ark Simmons place.

Q Where is that? A About a mile from the old Lewis Hall place.

Q How long did you stay there? A We staid there until some time maybe in October, can't tell exactly.

Q Was it of the same year? A Yes sir.

Q Then where did you go? A Went to the Six Mile Bottom on McGarrie's place.

Q How long did you stay there? A ~~XXXXXXXXXXXXXXXXXXXX~~ I don't know exactly - George Clark bought the place and we moved off.

Q Was that the same year? A Yes sir.

Q Where did you go to then after you left the place George Clark bought? A Went to the Dr. Thompson place.

Q Still in '66? A Yes sir.

Q How long did you stay there? A Until some time, long in '67, can't tell exactly.

Q Was it in the summer or fall? A I left there in the summer of '67.

Q You say that you left Joe Lynch up on Neosho Falls? A Yes sir.

Q When did you see him again after leaving him up there? A I saw him while I was living on this Six Mile Bottom, he came down there to see his brother in law Simon, and to locate him a place.

Q Six Mile Bottom of what creek or river? A Grand river.

Q On which side of the river? A The west side.

Q Did he pick himself out a place there? A Yes sir.

Q Is that the place he is living on now? A Yes sir.

By A. S. McRae:

Q Do you know Mr. Lynch, when Joe Lynch came to this place that you speak of to seek him out a location, do you know when it was?

A It was in the fall of '66.

Q Well you have known him to have lived in the Cherokee Nation continuously ever since he first moved to that place have you not?

A He has never moved off of it since he came there.

By W. W. Hastings:

Q When did he move here with his family? A He got here with his family in '67.

Q Was it in the fall? A In the Spring or summer.
 Q How long did he stay when he first came? A Week or ten days.
 Q Then did he go back? A Yes sir.
 Q He had no means then did he - nobody had any at that time did they? A No sir, not much.
 Q Was he a horse-back or foot the first time you saw him? A He was horse back when he came there to look up a claim.
 Q How many children did he have when he came in the following spring or summer with his family? A I cant remember just exactly, must have had three, four, five or six, I dont know just how many.
 Q Did they come in wagons that time? A Yes sir.
 Q When he did come back with his family, where did he move to?
 A Right on the place where he lives now.
 Q He never went back to the Joe Lynch place? A No sir, right where he lives now.
 Q Is that in Delaware district? A Yes sir, right close to Guss's.
 Q How far is that from the old Joe Lynch place where he used to live before the war? A 4 or 5 miles.
 Q In the same neighborhood though? A Yes sir.

By A. S. McRea:

Q Are you acquainted with the children of Joe Lynch? A Well, yes sir, I cant give the names of them all, I cant count them all, he cant ever count them; I knows them but I dont know their ages and cant give all their names. He cant even do that himself.
 Q Have you any knowledge of your own how old the oldest one of his children is? A No sir, I cant tell.
 Q Are you acquainted with the oldest one? A I knows them all but I cant tell nothing about their ages, I lives there in two miles of them but I cant tell nothing about their ages.
 Q Were they all born here in the Territory? A I think he brought two of them with him from Kansas when he come here first.
 Q When he moved here with his family you mean? A Yes sir.
 Q Where the others all born here? A I think they was.
 Q You dont know which ones were born in Kansas? A No sir, I think though that Hester - a girl - and the other one - I don't know - I dont know of any others was born there or not; The others though was all born right there where he lives. I dont know how many he brought with him from Kansas.
 Q Is the one that you referred to by name the oldest one? A Yes, sir, that I know of.
 Q You dont know of they have any older ones or not? A No sir I dont know.

By the Commission:

Q This place that you say that you saw Joe Lynch the first time when he came here to locate him a place, when he came here first on horse-back, was that in what you call Six Mile Bottom? A No sir, it was on the prairie, right on top of the prairie.
 Q You were living then yourself on the Six Mile Bottom? A Yes sir I was about four miles below there.
 Q And when you next saw him it was in the following summer? A Yes sir.
 Q When he was moving his family? A Yes sir.
 Q Did he move them all to this place near Six Mile Bottom? A Yes sir.
 Q How far from where you lived was this place? A Must have been 4 or 5 miles or maybe six miles.
 Q Were you at his place when he got there? A No sir, he was there when I saw him, he was right there.
 Q How long had he been there when you first saw him and his family?
 A I cant tell you that.
 Q But that is the first time you saw him after you saw him on horse back by himself the year before? A Yes sir.
 Q You dont know if he had just come or not? A No sir I never asked him.
 Q Do you remember when he married in Kansas, or were you present

at the time? A No sir I wasn't there; he married in '65 or '66, because we both belonged to the same regiment and were mustered out together and I left him there and during the time I left him there he married.

ANDERSON LYNCH, called and sworn by Commissioner G. R. Breckinridge, as a witness, testified as follows on the part of the applicant: (Examined by Com'r Breckinridge)

Q What is your name? A Anderson Lynch.

Q How old are you? A I am about 64.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A I was born and raised here.

By A. S. McRea.

Q Are you acquainted with the applicant, Joe Lynch? A Yes sir.

Q How long have you known him? A All my life.

Q Did you see him here in '65? A Yes sir.

Q What time of the year was it that you saw him? A It was in the fall of '66.

Q Where was it that you saw him? A It was right there on the river, he was making a claim where he is now living.

Q Did you know him before the war? A Yes sir.

Q Who did he belong to? A To Joe Lynch, the same man I did.

Q Are you acquainted with his wife? A Yes sir, a little, I have seen her in Kansas.

Q When did you see her in Kansas? A In '65, when I first got acquainted with her.

Q Were they married then? A Yes sir.

Q Do you know when Joe Lynch went back to Kansas for his family after he had first been here to locate him a claim? A Yes sir it was in the winter; and I think that he went up here to Osage Mission and had to stay a while and never got back here until in the winter of '67.

Q And did he then bring his family and locate where he is living now? A Yes sir.

Q Did they have any children born in Kansas? A They had one that I remember of, a girl.

Q What is its name? A Hester.

Q Was she born in Kansas? A Yes sir, I know she was.

Q How old was she when she came here from Kansas? A I don't know exactly.

Q Of your own knowledge, has Joe Lynch lived in the Cherokee Nation continuously ever since he came here in '66? A Yes sir.

By W. W. Hastings:

Q Have you ever been tried for anything? A Oh yes I has been tried.

Q What for? A I has been tried for murder.

Q What was done with you? A I was acquitted.

Q Ever been tried for anything else? A No sir.

Q You knew Joe Lynch before the war did you? A Yes sir, we was raised together.

Q Where did you live at the time that you say Joe came back here in the fall of '68? A On Lynch's Prairie, and heard of him being over there and came over to see him.

Q Is Lon Lynch your young master? A Yes sir.

Q And you say that Joe brought back his family from Kansas to the Cherokee Nation in the fall or winter of '67? A Yes sir, it was in cold weather.

Q He br' one child then that you remember? A Yes sir, he didnt have any children with him the first time he came, he came the first time on horse-back by himself.

Q I mean when he brought his family - his wife? A Yes sir.

By A. C. McRea:

Q You are a Cherokee citizen are you? A Yes sir.

AMERICAN, re-called and examined by the commission:

Q How did you get at the ages of these children that you handed in on this slip of paper? A I got a man to put them down.

Q Who told him the ages to put down? A I did, I just had to guess at it; I didn't know their ages exactly and had to guess at it, and he put them down as I said I thought they was.

By W. W. Hastings:

Q Is your wife living? A Yes sir.

Q Where was this list made out? A It was made out over at home.

Q Was your wife present when it was made out? A Yes sir, she was.

Q You talked with her about their ages didn't you? A So she sent count none; I talked with the man that put it down; of course she was standing there listening to me.

Q You are sometimes known by a nick-name are you not; as Joe Buzzard or Joe Lynch? A Yes sir.

J. L. LYNCH, called and sworn by Commissioner G. R. Breckinridge, testified as follows on behalf of the Cherokee Nation:

(Examined by Com'r Breckinridge)

Q What is your name? A J. L. Lynch.

Q What is your age? A 30.

Q What is your postoffice? A Stillwell, I. T.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life.

Q Do you know the applicant here, Joe Lynch? A Yes sir.

Q Did he belong to your father before the war? A Yes sir.

Q And at the time of the war? A Yes sir to the war to my father's estate.

Q Do you know what became of this man during the war? A He went to Kansas.

Q Did his wife Sophia belong to your father? A No sir, I am not acquainted with his family.

Q Do you know when this man came back to the Cherokee Nation after the war? A Not exactly.

Q What do you know of his coming back? A Well I came back myself in the winter of '66 and '67, in January or February.

Q And when did you first see this man after the war? A The first time that I saw him since the war was to-day a week ago.

Q Just a week ago? A I never saw him from then until last Tuesday a week ago.

Q Do you know where he lives near Six Mile Bottom? A Yes sir I have been to his house three or four years back, but he was not at home, I have not seen him since '68 until last week.

Q Then you have no knowledge of your own as to when he came back from Kansas to the Cherokee Nation? A No sir, I came back myself in '67 and stopped in Flint district and was going backwards and forward from Flint to my old place in that year of '67, and I found some of the negroes there, but Joe Lynch had not come in yet in '67.

Q Did you pass by where he is living now in your wanderings back and forth? A No sir he was not here then.

Q I mean did you pass by that locality where he now lives? A Yes sir I was well acquainted with the country round there.

Q Was you by there in your rounds in 1867? A Yes sir I was all around there and there was no house there then.

Q In 1867 did you go by the exact spot where this man now lives?

A I don't know that I did go by the exact spot, but I was round through the country there, backwards and forward.

Q What time in 1867 were you there? A I got back in February of '67.

Q Was you right there where this man now lives in February of '67?

A I don't know that I was right where he lives.

Q What time in '67 were you in that neighborhood? A I went around through there frequently.

Q Were you there in the fall or summer of '67? A I was right there

the river then, from the place where this man says he lives.

Q Did you go through that neighborhood in the summer or fall of '67? A I don't remember if I did go through the exact place that this man lives at but I was on the other side of the river, just opposite two or three miles from there.

By W. W. Hastings:

Q You passed by his place about three years ago you say? A Yes sir about 3 or 4 years ago, I went to his house but I did not see him as he was not at home.

Q About how far is that place from your old place? A Well I guess it is about 3 or 4 miles.

Q On which side of the river was your old place? A On the south side.

Q Of Grand river? A Yes sir.

Q When did your father die? A In 1861.

Q About the time the war came up? A Yes sir.

Q Did your father leave any property in that neighborhood in the way of farms and improvements? A Yes sir, left all his property there.

Q What were you doing up there in '67 after you returned to the Cherokee Nation? A I came back and found our old place sold under the Confiscation act and another man living on it, and I was up around there to look after it and the property my father had left.

Q How much of your time did you spend in that neighborhood in '67?

A Well I lived some of the time in Cooweescoowee district on Grand river, I had some folks living there, and then I lived in Flint off and on during '67.

Q You say you never saw this man Joe Lynch in that neighborhood any time during that year? A No sir.

By the Commission:

Q How far is Joe Lynch's home from your father's old home? A 5 or 6 miles.

Q Have you lived at your father's old home ever since the war?

A No sir.

By A. S. McRea:

Q When you came back for your interests in '67, you were only looking after your own interests and nothing else were you not? A Yes sir I was just looking after my property there.

Q You don't know whether or not Joe Lynch was at the place that he states he was or not at that time? A He was not there.

Q You're positive that he was not there? A Yes sir.

Q I understood you to say that you never went to the exact spot where he now lives until about three years ago? A There was no place there at all at that time.

Q That was a very isolated country up around there then was it not?

A Yes sir it was not settled up much then, not as many there as there are now by any means.

Q It is possible that he could have been around there when you first came there and you not have seen him, is it not? A Oh yes it is possible.

Q Then he might have been there and you not have run across him?

A He might.

By the Commission:

Q Did you see any of the rest of your father's slaves around there at that time? A Yes sir.

Q Did you visit them? A Yes sir, I saw them all that was there, at the old place.

Q Did you make any inquiry as to where the rest of them were?

A I inquired for Joe and the balance of them.

Q Did you dispose of that property that year or the next? A No sir I was the only one here at the time.

Q When did you get rid of it? A I cannot say positively, my brother and Col. Bell were administrators and they sold it when they got back.

JOSEPH L. THOMPSON, called and sworn by Commissioner O. R. Breckinridge, testified as follows on the part of the Cherokee Nation:
(Suggested by Commissioner Breckinridge)

Q What is your name? A Joseph L. Thompson.

Q How old are you? A 68.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A All my life, except one year.

By W. V. Hastings:

Q When did you come back to the Cherokee Nation after the war?

A I got back to Vinita creek in January, 1866.

Q Do you know the applicant, Joe Lynch? A Yes sir.

Q Do you know where he lives now? A Yes sir.

Q How far did you live from him then? A When I first settled there it was a mile and a half and now it is two miles.

Q Was he living there when you came back to the Cherokee Nation in '66? A No sir.

Q When did you say you returned? A January '66.

Q And he was not living there at that time? A No sir.

Q Did he move there since then? A Yes sir.

Q You were living then about a mile and a half from where he lives now? A Yes sir on what was then known as the Abheene place.

By A. S. McKee:

Q How long have you known Joe Lynch? A I have known him nearly all my life, he belonged to my uncle.

Q Do you know where he went to during the war? A No sir, he came from Kansas after the war, but I don't know where he was all during the war, I guess though I suppose.

Q Did he leave here during the war? A Yes sir.

Q When did he leave? A I don't know.

Q When did he return to the Cherokee Nation after the war? A To the best of my knowledge he returned in '66.

Q Where was the first place that you saw him in '66? A Where he now lives.

Q How long had he been there when you first saw him? A Only a few days.

Q Has he been living there continuously since '66? A Yes sir, I have been living there myself ever since and I have never known of him moving away.

Q Can you state positively of your own knowledge whether or not he was here in the Cherokee Nation before '66? A He was not living where he now does before that.

Q How do you know that he was not living where he is now before that time? A Well I was over the prairie frequently and did not see him until about that time.

Q What kind of a country was it around there? A How do you mean?

Q Was it isolated and grown up with brush and timber or were there lots of settlements around there? A Well there were only a few people living around in that part of the country then.

Q Was it wooded? A No sir he lived out on the edge of the prairie like.

Q How far did you say you were living from where he does at the time you first saw him? A About a mile and a half.

Q When you say you moved to another place? A Yes sir it was about two miles from his place.

Q Do you still live there at that place? A Yes sir.

Q Does he still live at the same place that you first saw him at?

A Yes sir.

Q How long have you been living at the place you now live?

A 20 years or more, yes it has been longer than that.

WALTER A. WEST, called and sworn by Commissioner O. R. Breckinridge, testified as follows on the part of the Cherokee Nation:
(Suggested by Commissioner Breckinridge)

Q What is your name? A Walter A. West.

Q How old are you? A 60.

Q What is your postoffice? A Spavinaw.

Q How long have you lived in the Cherokee Nation? A All my life.

B: V. V. Hastings:

Q Mr. West, where did you live the first few years after the war? A Over here on the Military Road in Delaware district.

Q Do you know Joe Lynche, the applicant here? A Yes sir.

Q Do you know where he lives? A Yes sir.

Q How far did you live from him at any time? A Well when he first came here after the war he lived two miles from me.

Q When did he settle there? A He came there in the spring of '68 to the best of my recollection.

Q Are you positive that he was not there before the year '68? A He was not there.

Q How far did you live from him? A Two miles.

Q How long had you lived there? A I moved there in the latter part of '66; during the first part of '66 I lived in close to Neosho and then I lived near Fort Scott Kansas and then I came down here and made a place and lived on it until in '68 and sold it to Nip and then moved to where I am now living.

Q Then in '67 and '68 you were living near the old Military road and near where this man lives? A Yes sir up to November '68.

Q Where did this man first come to after the war, to the place where he now lives? A I saw him on the old military road and he said that he had come from Kansas, and he settled near there and made a place; I could see it from my house, it was just in sight. It was close to what is now Nips place.

Q And you say that was in the spring of '68? A Yes sir that was in the spring of '68.

Q How long was it from the time you saw him on the old military road until he settled on this place? A That same spring that I saw him on the military road coming from Kansas.

B: A. S. McRea:

Q Mr. West, how long have you known Joe Lynch? A I knew him before the war when he was a little boy called Buzzard.

Q Where did he go to during the war? A I don't know.

Q Did he leave the Nation during the war? A I don't know except that he told me that he went to Kansas.

Q When did he leave the Cherokee Nation to go to Kansas if you know? A I don't know.

Q When did he return? A In '68.

Q How do you know that he returned in '68? A He came by my place and said he had come from Kansas.

Q How was he traveling? A In wagons of course, there was no railroads through here then.

Q Who was with him when you first saw him? A He was supposed to have his family with him.

Q What family? A Wife and child is all that I saw.

Q Where did he go to then? A Cross the river where he said he was going over among his acquaintances and relations and then he come back on this side and made him a place.

Q When did he locate his present place, where he now lives? A In the same year, '68.

Q Can't you possibly be mistaken? A I can possibly be mistaken, but that is my judgment.

Q How long have you lived in the neighborhood where you are now living? A Ever since November 1869.

Q Do you know anything about the character and nature of that country before '69? A Yes sir.

Q What was the condition of it, open land or wood? Was it well filled up with settlements? A It was not as thickly settled as it is now there was some thick woods down in the bottom

Q Was it a wild sort of country? A Well I guess you might call it sort of wild, there was lots of game in around there.

Q Are you positive that he was not located in around there before '88? A I did not see him until that time in '88.

Q Is it not possible that you might not have seen him around there and him yet be living there? A Well I dont hardly think it is for I was around through there pretty much hunting deer and would have run across him.

Q Is it possible that if Joe Lynch had been a deer that you would not have seen him there at that time on account of the isolated sort of country it was? A No sir not if I had had a winchester with me it is not likely that he could have got away for I was pretty good at killing deer then days.

Q Is it not possible that he could have come back to the Cherokee Nation from Kansas before '69 and you not have seen him? A Yes it is, but the first time that I saw him was there on the old Military road coming by my place from Kansas, as he said, and that was in the spring of '88. He could not have come by there and settled where he now lives without my having seen him.

Q You dont know of your own knowledge when he did come back to the Nation? A I knew that he did not come to where he now lives until in '88.

By the Commission:

Q You are not living in the same neighborhood now that you were when Joe Lynch come back? A No sir, I live six miles from him now and when he come back I lived two miles from him.

Q I understood you to say that when he come back the first time and settled that you were living two miles from where he settled?

A Yes sir.

Q That was within two miles of there he settled then and also where he now lives? A Yes sir.

Q When did you begin living on that place yourself -- the one you were living on when you first saw the applicant here? A In the latter part of '66.

Q And you lived there I believe you stated, until the latter part of '88? A Yes sir until in November '88.

By A. S. Moore:

Q Is it not true that you never came to this particular place where you are living now until in '88? A I went there in November, 1869.

Q I was speaking of the place where you lived before coming to the place you now live at? A I went there in '66 and made it my home and raised crops there until I sold it to Nip and moved away in '69.

JOE LYNCH, the applicant, recalled and examined by A. S. Moore:

Q Are you acquainted with Mr. Thompson who has just testified for the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life, ever since I was big enough.

Q Did you see him in '66 when you came to the Territory where you are now living? A No sir, I came by myself on horseback that time and never seed him.

Q When did you first see these witnesses? A Must have been in '67 that I seed him.

Q Where was it that you saw Mr. Thompson and Mr. West in '67?

A I saw Mr. West across the river.

Q And not at the present place where you are now living? A No sir when I come down there I never seed nobody.

Q When you brought your wife and family in a wagon did you see Mr. West as he swears you did? A No sir I never.

Q Then he did not see your family and you? A No sir.

Q If you had seen him you would have had some recollection of it would you not? A Yes sir.

Q How long has Mr. West lived in the neighborhood where he now lives - did he live two miles from you when you first settled there?

A No sir he never lived there when I came there, he came and got a place close by there and lived there after that.

Q When was that? A In '67, when I was living there.

Q What time of the year, in January or in December or in the summer or when? A Long in March of '67.

Q Did you know Mr. West before the war? A Yes sir.

Q If you had met him in '66 you would have some recollection of it would you not? A Yes sir course I would.

Q Is the statement of Mr. West that he saw you passing his house on the old Military road with your family in a wagon in the spring of '68 true? A No sir that is not true.

By the Cherokee Nation, W. W. Hastings:

Q Mr. West was living within a short distance of you when you located there? A He was on a place there three or so miles from me, he was on the old Military road and I was near Grand river.

By A. S. McRea:

Q When did your permanent residence begin down there? A It commenced long in the winter when I commenced making my field.

Q In the winter of '66? A Yes sir.

By Com'r Breckinridge: The applicant applies for the enrollment of himself, his wife and six children; it is developed in the course of the inquiry that one of the children for whom he applies is married and his application is reduced to five children. It seems that the applicant was a slave in the Cherokee Nation and of a Cherokee citizen prior to, and at the breaking out of the war between the United States and the Confederacy. He appears to have enlisted in the United States army and to have gone to the state of Kansas, from which state he returned after the war. The applicant is not identified on the roll of 1880 or upon that of 1886, or upon the Burns-Clifton roll, he is identified on the Wallace roll. He married in the state of Kansas, and in his first testimony states that he there lived until after the birth of his first child; that his wife had gone to the State of Kansas from the Cherokee Nation during the war, that she remained there four years prior to their marriage and that they returned to the Cherokee Nation one year after their marriage. The testimony relating to the time when his wife went to the State of Kansas is not present at this moment, it having been taken by another stenographer, but that can be inquired into later. The applicant subsequently denied that any of his children were born in the state of Kansas, but it is averred by other witnesses, including one of his own, that when he returned to the Cherokee Nation he was accompanied by one child, and one of the witnesses affirms that he was accompanied by more than one child. Witnesses who lived in the neighborhood in which the applicant located, according to his own testimony, immediately after his return, and at which spot he has continued to live ever since, affirm that he came there in the year 1866 with his family. The applicant affirms that he came there first on horseback in the fall of '66 and moved his family to this locality prior to the spring of '67. The testimony is very voluminous, but is referred to for fuller information in regard to its character. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card and the final decision of the Commission will be made known to him at his postoffice address. The applicant guesses his age at

60 years and that of his wife at 50 years! She appears to partake of all the rights and status enjoyed by himself and she will now be listed for enrollment as a Cherokee Freedman on a doubtful card; she being identified like the applicant on the Wallace roll, but not upon any other roll. The five children applied for, and who are said to be minors, and ~~that~~ whose applications are received at this time, are respectively Eliza, Cynthia Jane, Randolph, Ruth and Jackson; these children range in age from 11 to 18 years, they are all said to be living now, there is no dispute as to their identity or of their being living at this time; they are not identified on any roll, but they will be listed for enrollment with their father and mother as Cherokee Freedmen upon a doubtful card. The final decision of the Commission in regard to all of these applicants will be made known to them through their father at his postoffice address.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the continuation of the above named cause from one o'clock P.M., May 21st, 1901, at Vinita, I.T., and that the above and foregoing is a full true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise.

Subscribed and sworn to before me this the 28th of May, 1901, at Chelsea, I.T.

Signed, G. R. Dickinson,
Commissioner.

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Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing and that the same is a true and correct copy from the original.

Bruce G. Jones

Sworn to and subscribed before me this the 24th of August, 1901.

[Signature]

Commissioner.

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79-429

DEPARTMENT OF JUSTICE
COMMISSION TO THE FIVE
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1901

Department of the Interior
Commission to the Five Civilized Tribes.
Chelsea, I. T., May 29, 1901.

In the matter of the application of Nancy Curle for the enrollment of herself and one child as Cherokee Freedman, she being sworn and examined by Commissioner G. R. Breckinridge, testified as follows: A. S. McKee, Attorney for Applicant.

Q Give me your full name. A Nancy Curle.
Q How old are you? A I guess I am about thirty years old.
Q What is your postoffice? A Chelsea.
Q In what district do you live? A I live in Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to apply for the enrollment of anybody besides yourself? A Yes sir, one child.
Q One child of yours? A Yes sir.
Q Have you a husband? A Yes sir.
Q Do you want to apply for his enrollment? A Yes sir.
Q You apply then for yourself, your husband and one child? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I lived here all my life.
Q Give me the name of your father? A Joe Lynch.
Q Is your father alive? A Yes sir.
Q Give me the name of your mother. A Sophia Lynch.
Q Is your mother alive? A Yes sir.
Q Give me the name of your husband? A Riley Curle.
Q How old is your husband? A I guess he is about thirty years old; I don't really know.
Q Does he claim to be a Cherokee Freedman of his own right? A Yes sir.
Q How long has he lived in the Cherokee Nation? A He lived here all his life, I guess.
Q When did you and your husband marry? A I don't really know.
Q About how long? A I don't know.

Riley Curle, being sworn and examined by Commissioner G. R. Breckinridge, testified as follows:

Q Give me your full name. A Riley Curle.
Q How old are you? A I am about 30 or 32.
Q Do you claim to be a Cherokee Freedman of your own right? A Yes sir.
Q Is this your wife? A Yes sir.
Q When did you and she marry? A In 1891.
Q Have you a certificate of your marriage? A No sir, I haven't.
Q Were you ever married before you married this woman? A No sir.
Q Was she ever married before she married you? A No sir.
Q And you and she lived together ever since you were married? A Yes sir.
Q Is there some one here who knows it that you and she have been living together as husband and wife? Have you any of your neighbors here? A Her father Joe Lynch is here.

Joe Lynch, being sworn and examined by Commissioner G. R. Breckinridge, testified as follows:

Q Give me your name. A Joe Lynch.
Q How old are you? A 60 years old, I guess.
Q What is your postoffice? A Vinita.
Q Are you the Joe Lynch who applied for enrollment ever at Vinita? A Yes sir.
Q Have you got a wife named Sophia? A Yes sir.
Q Is this woman your daughter? A Yes sir.
Q How long has she been married to this man here, Riley Curle? A Well sir, I couldn't tell you exactly how long it has been.
Q Has it been a good many years? A Yes sir. I guess he could tell you better than I could.
Q Has she ever been married to anybody except this man? A No sir.
Q Have they been living together as husband and wife ever since they were married? A Yes sir.

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Riley Gurls recalled:

Q You have applied for enrollment? A Yes sir, I have applied for me and my children.
Q And your children? A Yes sir.
Q You told me you had never been married but to this woman? A I haven't.
Q What is she doing here applying for one child? A That is one she had before she and I married. (Applicant's husband enrolled)

Applicant further testified:

Q Give me the name of this child you want to apply for? A Lula Buffington.
Q This child was born before you married Riley Gurls, was it? A Yes sir.
Q How old is this child? A 14.
Q Is this child living now? A Yes sir.
Q Did you ever have any formal marriage with the father of this child, Lula? A No sir.
Q You never took the name of Buffington? A No sir, never have.
Q Did you ever keep house and live with this man in any way? A No sir.
Q He never held you out as his wife to the community? A No sir.

The 1880 authenticated roll, the 1896 census roll examined and the names of the applicants not found thereon.

Q Did you draw strip money? A I drew the Wallace money.

The Kerne Clifton Roll examined and the names of the applicants not found thereon.

Q Did you draw strip money for this child? A No sir.

The Wallace Roll examined and the name of the applicant is found on page 123, No. 2587, Nancy Lynch, Delaware District. Applicant's child not identified on said roll.

Q Did you draw Wallace money for this child, Lula? A No sir.

The applicant applies for the enrollment of herself and ~~and~~ one child. She began the application by including her husband, Riley Gurls, but it is found that he applied for himself and his children by his marriage to the applicant, and the case including them is Cherokee Freedman B. 270. No further proceedings therefore are taken at this time in regard to the original application made by the applicant for her husband. The child for whom she applies is a child born prior to her marriage to her said husband, Riley Gurls. As for the applicant herself, she is identified on the Wallace Roll. She is 30 years of age, and is not identified upon any other roll. It is shown that she and her husband were married in 1891; neither was previously married, and they have lived together ever since their married life. The applicant states that she has lived in the Cherokee Nation all her life. Her individual rights would be acquired through her father and mother, Joe and Apphia Lynch. Their case is Cherokee Freedman D - 376, and it is ordered that a set of the testimony, both original and supplemental in that case, be filed with this case. As for the applicant's right by intermarriage, should she fail to establish her right through her father and mother, that would depend upon the ultimate status of her husband, Riley Gurls, as set forth in case B Cherokee Freedman 270. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card to await the further consideration of her case under the conditions stated. As for her child, Lula Buffington, this child is shown to be the child of the applicant, born prior to her lawful marriage to Riley Gurls, and that she never had any form of marriage with the father of this child, neither having held each other out to the world in any way as husband and wife, or acknowledged

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any marriage relations between them. This child is not identified upon any roll. The applicant is desired to supply the Commission with a certificate of birth of this child, and when it is done, it will be listed for enrollment as a Cherokee Freedman on a doubtful card to await the determination of the applicant's status in her own right through her father and mother.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn before me this 30th day of May, 1901.

W. H. Kinnick
Commissioner.

File with Cherokee Freedman. D-429, Nancy Gurls.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1901.

In the matter of the application of Joe Lynch et al. for enrollment as Cherokee Freedmen.

Testimony introduced by Cherokee Nation.

Appearances:

A. S. McRea, attorney for the applicants
J. S. Davenport, of counsel for Cherokee Nation.

JOES CRAVENS, being duly sworn and examined by Commissioner ~~xxxxxx~~ Breckinridge, testified as follows:

Q What is your name? A Joes Cravens.

Q How old are you? A I am about 48.

Q What is your postoffice? A Vinita.

A. S. McRea: In view of the fact that the Cherokee Nation has already offered rebuttal testimony in the Joe Lynch matter, I ask that they state in advance what material fact they wish to bring out, whether it is an old matter or what. I certainly object to any testimony unless it is upon some new matter that they wish to bring out or develop.

Mr. Davenport: We will state, in introducing testimony, unless the record shows that we have closed upon the questions of disproving allegations of the applicant which he has attempted to prove, that is, of the ownership, and his return to the Cherokee Nation within the time provided by the treaty, that we will still introduce testimony. It may be possible the record shows we closed; or course if it does I agree with him, but if it does not show that fact, we are still on our branch of it.

Commissioner: Can the attorney for the applicant cite anything in the record in the nature of an agreement or understanding that the case has been closed?

A. S. McRea: That was my understanding.

Commissioner: Can you cite anything in the record to that effect?

A. S. McRea: Except to this extent, the son, in the person of Mr. Len Lynch, of the owner of the applicant, testified as to the ownership, and he also gave testimony as to the return, and naturally the presumption would be that the testimony on the part of the Cherokee Nation was closed.

Commissioner: What do you propose to prove by these witnesses?

Mr. Davenport: That he did not qualify within the time provided by the treaty, and that he has not resided here continuously since then.

Commissioner: The commission is compelled to pursue a very liberal course in regard to these cases, though it is aware of there being in some respects very trying to counsel on both sides, and it is also very trying to the commission. The law under which the commission operates seems to require, for a practical discharge of the obligations imposed, rather more latitude than is usually allowed, and the objection of counsel for the applicant is noted in the record. At the same time, however, in this case the testimony will be taken into consideration, in connection with the objection, by the full commission. The proceedings and requirements of the Department are very liberal towards applicants; at the same time they regard that the record is in some instances being unnecessarily enlarged. You can proceed with the witness.

Mr. Davenport: "How long have you lived in the Cherokee Nation?"
A "Oh I have lived in it off and on ever since the close of the war."
Q Did you ever live in Kansas? A Yes, I lived in Kansas.
Q Live in Iola, Kansas? A Lived in Iola about 12 or 13 years.
Q About what years did you live in Iola? A I lived there in '63 or '4, '8, along in there, different years, I was in and out, that was my home when I was around in there. I lived in different parts of Kansas.
Q Do you know the applicant, Joe Lynch, in this case? A Yes, I have seen him.
Q Do you know where he lives now? A Down here on Grand River not far from Island Ford.
Q Did he ever go by any other name, if you know? A Some calls him Joe Buzzard and some Joe Lynch.
Q When did you first get acquainted with the applicant? A When he lived in Iola, Kansas.
Q When was that? A That was along, oh it must has been 35 years since I first knew him, or close onto that.
Q What was the last time you knew him living in Iola, Kansas? A I can't tell you the exact time when I did see him because --
Q Where did you first get acquainted with him? A In Iola, Kansas.
Q When was that with reference to the close of the war? A Not long after the close of the war.
Q Did he have a family? A Yes, he had a wife, I don't remember now how many children he had.
Q What was his wife's name? A Some calls her Toos and some calls her Sophia, she answers to either one of them names.
Q Was his family living at Iola when you first got acquainted with him? A Yes, sir.
Q How long did they live there? A Oh, they lived there seven or eight years or more, he used to work for Dan Harvelly cutting wood, and the Davis boys.
Q You got acquainted with him in Iola, then, after just after the war? A Yes.
Q And he lived there to the best of your knowledge about how many years? A He must have been there eight or nine years, somewhere along there, six or seven, I never kept no count of it before he left there.
Q Do you know anything about his children, did he have any? A I have seen his children, but I never took no particular observation of them, I seen them all.
Q Did his family live anywhere close to you? A Right close, his wife used to stay in the house with my wife.
Q Where was he? A He was working, chopping saw-logs and working around down there.
A. S. McF a: What is your occupation? A All 'round man, no particular work, any line there is a dollar or five cents in, any man got a job of work, don't follow any one certain thing.
Q How long after the war was it that you first became acquainted with the applicant, Joe Lynch? A I don't know the exact time, but I know I met him in town there for a number of years, right around that town, I don't know when he left.
Q You don't know as regards -- you didn't know him in the year 1866? A I wouldn't say for certain, I expect I did but I will not say for certain.
Q Do you know anything about his ownership? A No, sir, don't know that.
Q His going out of the Cherokee Nation during the war, you know anything about that? A I know he came up there to Kansas.
Q When did he remove there? A I don't know exactly when he came, he came with old Uncle Mose Grubbs and Jonas Barter and them.
Q When was that? A That was right after the war, or time of the war, close onto that, right along there near the time they raided out of here.

Q Well, when did he return? A I don't know when he returned.

Q How long before the war was that? A Before the war, it wasn't before at all.

Q It was after the war? A Yes, sir, he wasn't up there before the war.

Q You don't know where he went to before the war? A No, sir.

Q How long did you live in Kansas? A I have been in and out there ever since the close of the war, I came to Iola, up here to Chetopa, Kansas, when the first house was ever built.

Q I will ask you if you are a citizen of the Cherokee Nation?

A I am a married man here, I married into citizenship here.

Q Just answer my question, yes or no? A I have never made no claim, no application for any claim.

Q And you have no particular calling for a living? A I do anything that I can make an honest living at.

Q Mention some of the things you do? A Haul, clean up, do anything, cut wood, anything in general.

Q How long do you work at any one particular work? A Just as long as that job is done, then I look for another.

Q What do you realize out of these jobs? A Whatever I can get out of them, and when that is done I am looking for another one.

Q How long have you been married? A I have been married twelve years, a little more.

Q To whom were you married? A I was married to Louisa Ross.

Q And you know Joe Buzzard? A Yes, I have been knowing him right around here for a number of years.

Q How long have you known him right around here? A I have known him in and out I think about 20 years when I first been in and out, I have seen him at different places.

Q Well now how long have you known him in and out in Kansas? A I told you how long, I told you he lived there but I don't know when he left there.

Q What part of that in and out was in Kansas? A I must have known him seven or eight years right around Iola there and maybe longer.

Q That was since the war? A Yes, he lived there.

Q Didn't you testify a while ago that you have been knowing him for 35 years? A I did, I expect I have known him longer than that. I didn't say positive, I expect I have known him longer than that in my rounds, I didn't stay right around him all the time.

Q 25 years of that time you have known him in the Cherokee Nation?

A I didn't say positive I have known him that long right in one place, but I can say positively I have known him right here in the Cherokee Nation for 15 or 20 years.

Q How long did you know your wife before you married? A I knowed her about three or four years.

Q And you been married to her twelve years? A Yes, maybe longer.

Q Where did you first meet her? A In Iola, Kansas.

Q You married her in Kansas? A Yes, sir.

Q Then when did you move to the Cherokee Nation with her? A Well when I first come down here with her, to the best of my knowledge, which I can prove by facts, little Ike Martin was a boy about that high.

Q I don't know him, tell about how many years? A That must be close onto 25 or 30 years, longer I expect, little Ike I expect is 25 or 27, I used to know him, I used to come here and hire a horse and buggy and he take me around over the Nation.

Q You knew your wife four years before you married? A I expect I knew her longer than that.

Q Come down to the fact of it? A I haven't got any specified time how long I knowed her.

Q I want to ask you the question? A Well I have done answered that.

Q Now you say you knew your wife four years before you married her?

A I expect I did and maybe longer.

Q Well how much longer? A I didn't say how long.

- Q You married her in Kansas? A Yes, sir.
- Q Stayed there about 12 years with her? A Yes, sir, I stayed in different parts of Kansas.
- Q And came to the Cherokee Nation with her? A Yes, sir.
- Q Now how long have you lived in the Cherokee Nation with her?
- A Right here in this town, I have been permanent in this town, about five years, permanent.
- Q With you and your wife? A Yes, sir.
- Q You said now that you knew him in all 35 years? A Knew who for 35 years?
- Q Your wife, knew her for 35 years? A I am just telling the time and different places I have lived.
- Q Didn't you tell you have known your wife altogether 35 years?
- A Maybe longer.
- Q And yet you knew her four years before you married her?
- A I can't give you any positive time about that.
- Q Lived with her 12 years in Kansas? A I can't give you any positive time, I lived with her about 12 years, I lived with her 12 years, she has been dead now about nine months, altogether will make about 12 years.
- Q You lived with her 12 years in Kansas? A I didn't say I lived with her that long in Kansas, I say I lived, I expect I have lived with her that long.
- Q The fact of the matter is you don't know anything about any of it?
- A I know anybody I see, if I see you and anybody ask me if I see you I can tell them I see you.
- Q Do you swear this Joe Lynch is the same one lived in Kansas, Toia Kansas, 40 years ago? A I didn't say 40, 50 he lived there, and I can prove by dozens of people.
- Q How long? A I didn't tell you how long.
- Q How long did you say? A I didn't say but I told you he lived there.
- Q How long did he live there? A I told you he lived there about seven or eight years around about the country and when he moved I don't know, it aint no use for him to say he didn't live there.
- Q We don't propose to argue the question, A Well you talked like he didn't live there; he lived right there.
- Q Now I want to go back with reference to the number of years you lived with your wife? A You needn't go back, I have told you all the reference you will get out of that, I told you that now, you are just losing time, I am not telling you the positive date about how long I lived, but I tell you what I can do, I have the papers down in my trunk will tell the dates, they tell you the dates, they are recorded and you can't dispute them.
- Q Now according to your estimate you lived with and known your wife 16 years; is that right? A You can make it as you please, I have give it now according to my best knowledge, I kept no record of it.
- Q In other words, you just came here to swear against Lynch? A I don't have it to do, I wouldn't lie for you if you were my daddy.
- Q Now didn't you just come here to swear against Joe Lynch? A No, sir I haven't got nothing against the man, not a thing sir, but I don't propose to tell a lie for nobody, a man can't hire me to do that; no, sir; if I am acquainted with a man and a man ask me if I know him --
- Q Well how many children did Joe have in Kansas? A Well I know one time me and my wife was down there, and I couldn't count them, I says, Toos, how many children have you got for Lord sakes, and she says, Mr. Gravena, you see them running around here like quails, count them, and I couldn't count them.
- Q How many did you count? A I counted eleven or twelve, but I understand that he was the father of 22; I don't know it by the facts.

the last count he had 22 I think what his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Cravens, how long have you known Joe Lynch, all told?

A I can't tell you exactly, all told, but you asked me how long did I know him and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out over since the close of the war.

Mr. Davenport: Did you have any neighbors up there at Iola, Kansas, do you remember the names of any that know about Joe being there?

A Yes, there is Dr. Charteen, Dan Harvelly, Bill Davis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably be here, or their representatives.

A. S. McRea: Now your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedman cases D-383, D-384, D-385, D-386, D-387, D-429, D-450, and D-233.

Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedman D-576.

Note: Copy of testimony also should be filed in case of Robert Foster, D-522, and in D-270, as to children of Filey Curls and Nancy Curls.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Sworn to and subscribed before me this 8th of October, 1901.


Commissioner.

27-5-429

FILED
DEC 23-1904
COMMISSION TO FIVE TRIBES

(C O P Y)

Cherokee F D-376.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I. T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of JOE LYNCH ET AL., as Cherokee freedmen.

APPEARANCES:

Applicant appears in person and by attorney, A. S. McKee.
Cherokee Nation by its representatives, W. W. Hastings
and L. R. Bell.

SIMON LYNCH, being first duly sworn, testified as follows:

BY MR. McKEE:

- Q What is your name? A Simon Lynch.
Q What is your age? A 74.
Q What is your post office? A Spavinaw.
Q Are you a recognized citizen of the Cherokee Nation? A I don't
know, I guess I am, I hardly know.
Q Does your name appear upon the authenticated roll of 1880? A I
reckon so, I don't know.
Q You are an applicant for citizenship in the Cherokee Nation, are
you not? A Yes sir.
Q Are you acquainted with Joe Lynch, the applicant who made appli-
cation for enrollment as a citizen of the Cherokee Nation on
May 21, 1901? A Yes sir I know him all his life pretty near.

BY MR. HASTINGS:

Comes now the representatives of the Cherokee Nation and asks
permission to interrogate this witness as to his competency to
testify.

BY MR. HASTINGS to witness:

- Q Your name is Simon Lynch? A Yes sir.
Q You live in Saline District? A Yes sir.
Q You have lived there since the war? A Yes sir ever since.
Q Are you the same Simon Lynch that was convicted of the larceny
of some hogs? A Yes sir, and I was not there when the hogs
were stolen.
Q You were sent to the Cherokee jail at Tahlequah, Indian Terri-
tory? A Yes sir.

BY MR. McKEE:

Comes now the attorney for the applicant and objects to the

motive of examination relative to the competency of the witness for the reason that the witness having been convicted of some crime committed in the Cherokee Nation under the Tribal Government is no test of witness competency to give any testimony in cases of this character, in view of the fact that under the laws of Congress enacted and put in force in the Indian Territory, the witness herein is now declared under and by virtue of said laws a United States citizen clothed with all the rights and privileges of other citizens of the United States.

BY THE COMMISSION:

Objection noted.

BY MR. HASTINGS:

Q You were convicted of stealing bags from Charles Thompson, who was afterwards Chief of the Cherokee Nation? A That is what it was said.

Q That was the Cherokee penitentiary at that time at Tahlequah?

A I don't know what it was.

BY MR. MORRIS:

Q How long have you known Joe Lynch? A Ever since he was a little boy.

Q Was he a slave of a Cherokee citizen of Cherokee blood? A Yes sir.

Q Do you know whether or not of your own knowledge that Joe Lynch went out of the Cherokee Nation during the war of the rebellion?

A Yes sir.

Q Do you know to where he went? A No sir I don't know.

Q Do you know when he returned back to the Cherokee Nation? A Yes sir.

Q State when you first saw him in the Cherokee Nation after the war? A In the fall of '66.

Q At what place in the Cherokee Nation did you see him? A In the six mile bottom there at my house.

Q You were then living in the Cherokee Nation? A Yes sir.

Q Did you have any conversation with him? A Yes sir stayed all night with me.

Q Did he state to you at that time for what purpose he returned to the Cherokee Nation? A Coming to look out a home.

Q How long did he remain? A About three days.

Q Do you know where he went after that? A Said he was going back to Kansas.

Q When was the next time you saw him in the Cherokee Nation?

A About the first of February, he moved down.

Q Of the next year? A Yes sir.

Q Of 1867 was it? A Yes sir.

Q Did he bring his family out that time? A Yes sir.

Q You have known him to reside continuously in the Cherokee Nation ever since? A Never anywhere else that I know of.

Q How many persons did his family consist of at the time he returned in February, 1867? A One besides him and his wife.

BY MR. HASTINGS:

Q Where do you live now? A I live right there adjoining places to my old house's place in Salina District.

Q Were you living there at the time Joe Lynch came to your house as you have stated the first time? A No sir.

Q Where were you living at that time? A In six mile bottom on a place of George Clark.

Q Then Joe never moved his family down here in 1866? A No sir.

- Q And if any of these witnesses testify to that effect they testify to what is not true? A I don't know what they testify. He didn't move until I moved there in Saline District to my house.
- Q When did you move to your house? A He moved to my house.
- Q When did you move to your house? A In 1867.
- Q What time in 1867? A February first.
- Q Of 1867? A Yes sir.
- Q How long had you been over there before he come back? A I had been there about two months.
- Q Then it was about two months after you moved over to your house before Joe Lynch brought his family? A Yes sir.
- Q And you moved over there about the first of February, 1867? A Yes sir.
- Q Joe's first wife was related to you wasn't she? A He never had but one.
- Q Was that wife related to Joe? A Joe's sister.
- Q Why didn't you testify for Joe in this case up at Vinita? A He didn't want me, didn't call on me.
- Q Did you ever testify for him before? A No sir.
- Q You never testified for him before the Kern-Clifton roll? A No.
- Q Nor before the Wallace court? A No sir.
- Q Where did you make a crop in the year 1866? A Up on Cabin Creek.
- Q On which side of Grand River? A On the west side.
- Q When did you move there? A In the summer.
- Q Summer of 1866? A Yes sir.
- Q Then where did you go? A I come down there close to the old Military road at Mrs. Kell's old place.
- Q Then where? A To the six mile bottom where George Clark let me have a place.
- Q What time did you move? A In the fall.
- Q Of 1866? A Yes sir.
- Q What year is this? A I don't know.
- Q What year was it that Wallace made his roll of freedmen? A I don't know, I can't keep no time of anything that way.
- Q What year did Kern-Clifton make a roll? A I don't know.
- Q Don't know any of these years? A No sir.
- Q What kind of a team was Joe driving when he come down to your place? A An old sorrel mare and one bay.
- Q What road did he come in coming to your place? A All roads, he started from Sulphur Springs and come right down over the mountain that is as far as I can tell you he come.
- Q What Sulphur Springs was that? A The Bob Daniels old place.
- Q On which side of the river was Bob Daniels' place? A West side.
- Q Did he come by Watt West's place? A No sir.
- Q How far did Watt West live from the road? A He did live on the side of the road when he come there.
- Q Where did Joe Lynch settle when he first come to your house in '67 with his family? A Right where he is now.
- Q That is the first place he ever settled? A Yes sir.
- Q And he has been living right there ever since? A Yes sir.
- Q How long did he stay at your house before he went and settled this place where he resides now? A He stayed there about two months I guess to the best of my knowledge.
- Q Then he settled this place in the early summer? A No sir.
- Q Or spring? A No sir, it was too late to make a crop.
- Q Then he come down there too late in the spring of '67 to make a crop? A He worked at my place a little.
- Q And went from your place to where he lives now? A Yes sir.
- Q Built him a house? A Yes sir.
- Q Did nobody come with him besides his family? A I don't recollect now.
- Q What is his oldest child's name? A Hester.

Q And she was with him? A Yes sir.
Q Didn't have any other children at that time? A No sir.
Q You say you don't remember any other colored people coming with him? A No sir it has been so long I don't recollect.
Q You used to have his sister for your wife? A I have got her yet when I am at home.

BY MR. McREA:

Q Did you ever vote in the Cherokee Nation? A Yes sir might near every election.
Q Have you voted in the Cherokee Nation since the time you were convicted of this offense of which Mr. Hastings speaks? A Yes sir every time since never voted when I was a slave, voted since.
Q You have enjoyed all the rights and privileges of a Cherokee citizen ever since 1866, have you? A Yes sir.
Q You speak of living on a place that you got from Mr. George Clark in 1866? A Yes sir.
Q He recollects that does he not? A I guess so.
Q How far do you live from that place that you rented from Mr. Clark with reference to the place you live on now? A About two and a half miles.

BY THE COMMISSION:

Q Where did you go during the war? A Kansas.
Q And when was it you returned to the Cherokee Nation? A February, 1866.
Q That is when you came there, February, 1866? A Yes sir.
Q How long had you been here did you say, until you saw Joe Lynch?
A He came in the fall after I came here, yes sir, horse back.
Q Was it cold weather then? A No sir not right cold, it was in the fall.
Q He came to your place? A Yes sir came to Mr. Park's place where I was living.
Q How long did he remain there Mr. Lynch. A Until spring.
Q I am talking about him? A He stayed there about three days.
Q Just on a visit? A He came down to look out a location.
Q And then where did he go if you knew? A He went back to Kansas, said he was.
Q Did you first move from the George Clark place about the first day of February? A Yes sir.
Q And you answered Mr. Hastings that you had been there about two months did you not when you saw Joe Lynch? A When he came back from Kansas I was living at George Clark's place.
Q And the next time where were you living? A Where I live now.
Q How long had you been there when you saw Joe Lynch the second time? A Two or three months.
Q When did you go to where you are living now? A February I moved over there the first of the spring.
Q February, 1867? A Yes sir.
Q That is the story you want to tell the Commission is it? A That is what I have told.
Q I have not mislead you have I? A No sir I guess not.
Q You want to tell the Commission that you moved over to where you are living now about the first of February, and you had been living there about two or three months when you saw Joe Lynch and his family? A Yes sir when they moved down.
Q When he came to where you are now living in the spring of 1867 who did he have with him? A His wife.
Q Who else? A His child.
Q Wife and one child? A Yes sir.

- Q That is the child Hester? A Yes sir.
- Q So far as you knew Hester and her mother had not been in the Cherokee Nation after they had left during the rebellion until you saw them where you now live? A That is right so far as I know.
- Q How was it that Joe Lynch came down and picked out a place?
- A That is what he said.
- Q Did he make any improvements or locate him a claim so far as you know? A Yes sir right where he lives.
- Q Did he improve it? A Put some logs around it, made a foundation of logs around it.
- Q Did he do that in three days time? A Yes sir I went and helped him.
- Q Was that on the prairie? A Yes sir.
- Q Was there any timber close there? A Yes sir, right south of it.

BY MR. MORRIS:

- Q Do you remember that you stated in your examination in chief, when I asked you the question, when was the first time that you saw Joe Lynch in the Cherokee Nation, your answer was in the fall of '66, is that correct? A Yes sir.
- Q Then I asked you when was the next time you saw him, and your answer was about the first of February, 1867?
- Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to the leading questions that are being asked by the Attorney for the applicant.
- Commission: Objected noted.

- Q Did you make that statement? A Yes sir.
- Q When was the first time you saw Joe Lynch in the Cherokee Nation after the war? A Fall of '66.
- Q How long did he remain in the Cherokee Nation at that time?
- A About three days at my place.
- Q Did you have any conversation with him? A I talked with him all the time he stayed there.
- Q What did he say if anything with reference to coming back to establish his citizenship in the Cherokee Nation? A Said he come back home to locate out a place.
- Q Did he locate a place at that time? A Yes sir.
- Q Do you know where? A Yes sir.
- Q Is it the present place he lives on? A Yes sir.
- Q When was the next time you saw him in the Cherokee Nation after the war? A In the spring, I don't know just what dates.
- Q Where were you living when he returned to the Cherokee Nation the second time? A Right where I live now.
- Q How long had you been living where you live now before Joe came back? A Not long, just a little while.
- Q Did he bring his family with him at that time? A Yes sir.
- Q You know what month it was that he brought his family to where you now live? A I don't know exactly.
- Q How long did he stay with you at that time? A He stayed until he built him a cabin, there where he lives now.
- Q That was in '67? A Yes sir,

BY MR. HASTINGS:

- Q You say that was about two or three months after you moved there from the George Clark place? A He stayed there two or three months with me.

BY MR. McKEA:

Q It was two or three months before he moved to where he lives now?

A Yes sir.

Q And you stated that you hadn't been where you live now very long until he come there? A Yes sir.

BY MR. HASTINGS:

Q You have testified that you moved over to this place from the George Clark place about sometime in February, 1867? A Yes sir.

Q You have testified that you were over there about two or three months when Joe Lynch came back the second time with his family?

A Yes sir, I was.

BY MR. BELL:

Q Was not there no other colored people living around there?

A Crap and Art.

Q Did they come to see Buzzard? A Yes sir they lived at the old bosses place, got it from Len Lynch.

BY MR. HASTINGS:

Q You are positive that this child Hester was born in Kansas, and that they brought it down here with them? A Yes sir.

Q About how old was Hester when they come down? A I don't know.

Q About how old? A I can't tell she was a child.

Q Running around, walking and talking? A Sucking I believe.

Q Was she a year old? A I can't tell how old she was, don't know that.

LEWIS LYNCH, being first duly sworn, testified as follows:

BY MR. McKEA:

Q What is your name? A Lewis Lynch.

Q What is your age? A Near about 50.

Q What is your post office address? A Spavinaw.

Q Are you a recognized citizen of the Cherokee Nation? A Claim to be, yes sir.

Q Is your name on the authenticated roll of 1850? A Yes sir.

Q Are you acquainted with Joe Lynch? A Knew him by the name of Joe Buzzard, yes sir.

Q He is the same person present and an applicant for citizenship in the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life.

Q Did he belong to a citizen of Cherokee blood of the Cherokee Nation before the war? A Yes sir.

Q To whom did he belong? A To Joe Lynch.

Q Did he go out of the Cherokee Nation during the war of the rebellion? A Yes sir.

Q Do you know to where he went? A To Kansas.

Q Do you know when he returned back to the Cherokee Nation with reference to the Treaty? A They said it was in 1866, I was quite a boy and didn't keep records of the dates.

Q Did you see him in the Cherokee Nation after the war? A Yes sir.

Q What time after the war? A It was along in the winter.

Q Of what year do you remember? A They say it was '66, I kept no records of the dates at all.

Q Where did you see him in the Cherokee Nation? A At my father's.

Q Who was your father? A Simon Lynch.

Q The gentleman who has just testified? A Yes sir.
 Q Were you present when Joe Lynch came to your father's house?
 A Yes sir.
 Q How did he come? A Horse back.
 Q How long did he remain at your father's house? A Two or three days not longer.
 Q Did he say anything with reference to coming down for the purpose of establishing his citizenship of the Cherokee Nation at that time? A I didn't hear him at that time.
 Q Where did he go to after he left your father's house at that time? A The old folks said he went back to Kansas.
 Q Did you see him in the Cherokee Nation after that? A Yes sir.
 Q About how long after the first time you saw him? A It was along in the spring the next time.
 Q Of the next year? A Yes sir.
 Q Where did you see him then? A In Saline District.
 Q At what place? A At my father's where we lived, we had moved out of Delaware District into Saline District.
 Q Did he bring any one besides himself at that time? A He brought his family.
 Q How many persons did it consist of at that time? A Two to my best knowledge, they were his wife and daughter.
 Q Was it his present wife? A Yes sir.
 Q Do you know the name of the daughter? A Hester.
 Q Hester who? A Hester Foster now.
 Q Did he at that time begin making preparation for a permanent location in the Cherokee Nation? A Yes sir the last time he came he did.
 Q Where did he make that location? A In Delaware District.
 Q The place where he now lives? A Yes sir.
 Q And that was in the spring you say of '67? A Yes sir to the best of my knowledge, I don't know anything about the dates, but it was the next spring after I saw him first.
 Q Where did he make his home while making preparation for the place? A With my father and mother.
 Q How long did he stay there? A I disremember just how long.
 Q But you do know that he moved from your father's place over to the place where he now lives? A Yes sir.
 Q Have you known him to be continuously in the Cherokee Nation ever since that time? A Yes sir.
 Q You are close neighbors are you not? A About two and a half miles.

BY MR. HASTINGS:

Q Joe Lynch, the applicant, is an uncle of yours is he not? A Yes sir.
 Q You never took the stand to testify for him before have you?
 A No sir.
 Q You don't know very much about this you saw? A No sir.
 Q You only know the dates they told you they were, that is all you are attempting to testify to? A Yes sir.
 Q You know what date Mr. Wallace made a roll of Cherokee freedmen?
 A No sir.
 Q Do you know when that big freedman payment was made? A Which one
 Q The last one? A No sir, I don't.
 Q You don't know when Kern-Clifton made a roll? A No sir.
 Q What year were you married? A I don't know that.
 Q Are you a married man? A Yes sir.
 Q Got some children? A Yes sir.
 Q What is the date of the birth of the first one, what year? A I don't know.

- Q You don't know no years do you? A No sir not particularly.
- Q You and your father and the attorney for the applicant talked over this case to what you were going to testify? A No sir.
- Q Never mentioned it? A No sir.
- Q Never said anything to Mr. McRea outside? A No sir.
- Q He never talked to you about what you knew about the case? A Yes sir, but not on the outside.
- Q Inside of the room then? A Yes sir, outside is outside, and inside is inside.
- Q He went over it with you and your father? A Yes sir.
- Q And your father told you about what he knew about it in your presence and you testified to the same thing? A No sir, I didn't.
- Q You don't know the year do you? A Which year.
- Q When you first saw Joe Lynch? A No sir, they claim it was in 1866.
- Q They claim it and that is all you know about it isn't it? A Yes sir.
- Q Where was you born? A In the Cherokee Nation.
- Q Where was you living when Joe Lynch moved his family down there? A In Saline District.
- Q On whose place? A Simon Lynch's place.
- Q Same place you are living now? A Same place he is living.
- Q He was living right there when he moved his family down where he is living now? A Yes sir.
- Q Are you sure he had one child? A That is all I remember.
- Q You remember that one? A Yes sir.
- Q If Joe Lynch swears that he didn't have that child, he is mistaken isn't he? A I suppose he is.
- Q Do you know he is? A Yes sir if he swears that he didn't have it when he come.
- Q About how old was Hester when they moved there? A I don't know.
- Q You remember they had a child, how big was it? A A good big child, large enough to be walking.
- Q Walking? A Walking, yes sir.
- Q Talking? A I don't know about that.
- Q Did he come the next time in a wagon? A Yes sir.
- Q Do you remember what kind of horses he had? A No sir.
- Q They didn't tell you yesterday about that sorrel team? A No sir.
- Q Didn't you hear your father say that? A No sir.
- Q Your father told you yesterday that he had moved from one place to another? A No sir.
- Q Didn't tell you that? A No sir, I knew that.
- Q But you don't know what year you moved? A No sir.
- Q You don't know anything about the years? A No sir.
- Q You don't know a single year in which a single one of your children were born do you? A Yes sir.
- Q What year was the first one born? A I couldn't say exactly.
- Q Then you don't know do you? A No I don't know that I could positively say now.
- Q You don't know what year only what they said when Joe Lynch come back? do you? A No sir.
- Q You don't know what year you moved to the place where your father lives now, only what you were told? A No sir.
- Q How long had you been living there when Joe come back? A Not quite a year we moved there in the winter and the next spring I saw Joe Lynch.
- Q Simon had been living where he lives now for about a year when Joe come back? A No sir not a year.
- Q About how long? A Moved over in the winter and I saw Joe the following spring.
- Q How long had your father been living there when Joe brought his family? A Might have been three or four months.
- Q Is that your best judgment? A Yes sir.

- Q Had you put in corn? A No sir.
Q Fixing to put in corn? A Yes sir.
Q Do you know what month your father moved there? A No sir.
Q You don't know what year? A No sir.
Q What year is this? A I don't know exactly.
Q You don't know what year you were born in do you? A No sir.
Q How many children have you? A Three.
Q What year was the second one born in? A I don't know.

W. A. WEST, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HAWKINS:

- Q What is your name? A W. A. West.
Q What is your age? A 63.
Q What is your post office address? A Spawinau.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Have you always lived, with the exception of the war, in the Cherokee Nation? A Yes sir.
Q Is that in Saline District? A Yes sir.
Q Were you in the army during the war? A Yes sir.
Q Where did you settle first after the war? A My permanent house was on the road there, on the Military road north of Grand River there where I lived.
Q When did you settle there? A About 1867, commenced it in '67 and finished it that winter, I commenced in the summer like getting out the lumber.
Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Do you know where he now lives? A Yes sir, I presume I do, at the same place where he has lived, I haven't been at his house lately.
Q You have been at his house? A Yes sir, I have been there often.
Q It is claimed that he lives at the same place? A Yes sir.
Q How far is that from where you formerly lived? A It is about two and a half miles or three miles, somewhere along there, I always called it about two miles.
Q I will ask you if you knew him when he lived there that near you? A Yes sir.
Q When did he first come back to the Cherokee Nation after the war? A To the best of my recollection he came back in 1868.
Q Were you living at this place you had made? A Yes sir.
Q And you commenced that in 1867? A Yes sir.
Q What time in '67 did you commence that place? A I commenced getting out the lumber along in the spring and summer and I lived in a tent on the same road about a quarter from that place.
Q Were you living in the house when you saw this applicant? A Yes sir.
Q Where was he going? A He said he was going from Kansas, coming there to make a home in the Cherokee Nation and he inquired at my house where Simon Lynch lived.
Q Did you direct him to where Simon Lynch lived? A Yes sir, I told him Simon Lynch lived across the river somewhere about the old Lynch farm.
Q Was Joe Lynch in a wagon? A Yes sir.
Q Did he have the members of his family with him? A He had his wife and one child, as well as I remember.
Q Do you remember what kind of a team he had? A He had just a common pony team.

- Q Was your house on this old Military road? A Yes sir right along the edge of the road.
- Q When did you get that house completed, was you moved into it? A I moved into it in the fall of 1867.
- Q And it was not until after that time that he come along in a wagon inquiring for Simon Lynch's? A No sir, in 1868.
- Q You think it was the next year? A Yes sir the next year, and may be the following.
- Q And it couldn't have been earlier than 1868? A No sir, nor later '68 is the year as well as I remember.
- Q Was any one else along with him in the wagon besides his family? A No sir.
- Q He said he was from Kansas, did he? A Yes sir.
- Q And he was inquiring the way to Simon Lynch's? A Yes sir.
- Q He didn't know then at that time where Simon lived? A No sir I reckon not by his inquiring.
- Q This same Simon that you have seen here as a witness in this case? A Yes sir the same Simon.

BY MR. McNEA:

- Q You have testified in this case once before haven't you? A Yes sir.
- Q And you haven't any improvement to make by way of testimony on what you have already testified to? A No not that I know of.
- Q Do you know where Simon Lynch was living in 1866? A Across the river.
- Q He was in the Cherokee Nation in 1866 was he? A Yes sir.

BY MR. HASTINGS:

- Q Do you know of Simon Lynch's having been convicted of stealing hogs? A I have heard he was convicted.
- Q In the Cherokee courts? A Yes sir.
- Q Sent to the Cherokee penitentiary? A Yes sir.

JOE L. THOMPSON, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Joe L. Thompson.
- Q What is your age? A 66.
- Q What is your post office address? A Vinita.
- Q Are you a Cherokee citizen by blood? A Yes sir.
- Q Where do you live, you don't live in the town of Vinita do you? A 12 Miles south of Vinita.
- Q How far from Grand River? A About three miles.
- Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you remain in the Cherokee Nation during the war? A No sir.
- Q Where did you go, south? A Went to Texas.
- Q What year did you return after the war? A I came back in the winter of '67, I came to Fort Gibson.
- Q When did you land up there near where you live on Grand River? A In the spring of '66 I come to the place where I now live and made a crop, in the spring of '69 I moved on the Arzuma place.
- Q Do you know where the applicant, Joe Lynch, now lives? A Yes sir
- Q How far does he live from you? A About three miles I guess.
- Q Was he living there when you came back? A No sir, not to the best of my recollection.
- Q Do you remember of his coming back there? A It was the best of my recollection, that he moved there to that place about 1869.

- Q You say he wasn't living there when you returned? A No sir.
Q And you came back yourself in the early spring of 1868? A Yes sir.
Q Was he living there when you come back in 1868? A If he was I didn't know it.
Q What is your best judgment? A He was not living where he is living now.
Q It is plain to him that he settled there the first place that he settled in the Cherokee Nation? A The best of my recollection is he never moved to the place where he lives until 1869.
Q Was that the first you saw of him in the Cherokee Nation after the war? A Yes sir.
Q Did you know him before the war? A Yes sir.
Q Did you know his owner? A Yes sir his owner was my uncle.
Q Where was you living in 1869 when you first saw this applicant?
A On what was called the Arsena place.
Q How far from Simon Lynch's? A About four or five miles the way you have to go I reckon.
Q You feel positive that this applicant was not there when you first came back in 1868? A No sir there was no improvements there when I come back in 1868.
Q Do you know Simon Lynch? A Yes sir.
Q Do you know of his being convicted of stealing hogs in the Cherokee Nation? A No sir.
Q You have heard of it? A If I did, I don't remember it.
Q You live there in Tahlequah District? A Yes sir.

BY MR. McKNAI:

- Q I understood you state that you did not return to the Cherokee Nation until sometime in 1867, is that right? A Yes sir.
Q Where were you in '66? A I guess I was in Texas.
Q If Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866 and his testimony is born out by Ed Lynch and Simon Lynch, are you prepared to say that that is not true? A I haven't said so.
Q You would not say so would you? A I was not here in 1866.
Q You have testified in this case before, haven't you? A I don't know, I guess so.
Q And you are not now prepared to add nor detract anything from the statements you first made in the case, at this time are you?
A No sir, I don't know that I am.

G. W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A G. W. Clark.
Q What is your post office address? A Vinita.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Were you in the Union army during the war? A Yes sir, I served nearly three years in the army.
Q When was you married? A I was married on the 5th of June, 1868.
Q Just after the war? A Yes sir, eight days after I was mustered out of the service.
Q Where did you first settle down after the war? A Upon the river in the neighborhood of where I live now.
Q Up in the north end of Saline? A Yes sir, it was Saline then but it is in Cooweescoowee now I think.

- Q That was just across the river from the north end of Saline?
A Yes sir, I lived on the west side of the river, I made a crop there in '66.
- Q Where did you make a crop in '67? A I moved in the fall of '66 along in December to another place about ten or twelve miles from there, the place where I was, to a place in Delaware District known as six mile bottom.
- Q Near the old Joe Lynch place? A Yes sir.
- Q On which side of the river? A On the same side, west side.
- Q That was in the fall of '67? A No sir, fall of '66.
- Q Where did you live in the year 1867? A I lived there four or five years.
- Q Continuously? A Yes sir.
- Q Did you know the applicant, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you know him before the war? A I saw him but I don't say that I was acquainted with him.
- Q You knew his owners? A Yes sir I know old Uncle Joe Lynch.
- Q Was he a relative of yours? A No sir.
- Q Do you know where this applicant now lives? A Yes sir, I am well acquainted with the place, about two to two and a half miles from where I lived four or five years.
- Q You moved up there in the fall of '66? A Yes sir.
- Q And you lived there four or five years? A Yes sir, may be six.
- Q When did he move back to this place after the war? A The first I recollect of seeing him I seen him at old man Simon's place, old man Simon in the fall of '66 lived on my place in this six mile bottom, after I moved there I let him have some house and lived there that winter and early in the spring of '67 he moved to what is known as the old Joe Lynch bottom.
- Q You mean Simon? A Yes sir, I loaned him a yoke of steers. to do the breaking he did there.
- Q How long after you moved to this place was it before you saw Joe Lynch at Simon's? A I didn't see him there for a couple of years.
- Q How long was it after you moved to this place where you moved in '66 before Joe Lynch came there and made this improvement? A My recollection is that he didn't make this improvement the first year after I came there.
- Q You think the first time you saw Joe was at Simon's? A That is the first time I saw him.
- Q Where was Simon living then? A Where I located him on the east side of the river.
- Q That was up your place? A No sir.
- Q And you think that was to your best judgment, 1866? A It was 1866 or '69.
- Q And you owned the place where Joe Lynch afterwards built? A Yes sir.
- Q Were you acquainted with the country before he built there?
A Yes sir, that was on the road there where I did the most of my passing.
- Q Did you travel that road frequently? A Yes sir.
- Q About how far did Joe Lynch the applicant located from this road?
A He located on a little ridge about 150 or 200 yards from the road, it may have been more or less.
- Q The place could be seen easily from the road could it? A Yes sir.
- Q Nothing in the way? A He built his house there on the prairie.
- Q You knew Simon Lynch, who has testified in this case? A Yes sir, I am well acquainted with him.

Q Do you know of his having been convicted up there in the Cherokee courts for stealing hogs? A I had moved away from there then, but I heard of it.

Mr. McRea: We object to heresay.

Commission: Objection noted.

Q It was a common report was it? A He was convicted, no common report about it.

Q What official positions have you held, you have been a member of the Cherokee Senate and Cherokee Council a number of times?

A Yes sir I was in office 16 years, I have---

Q Also on the Circuit bench? A Yes sir, eight years.

Q Solicitor of Saline District? A Two years.

Q And you were in the Union army? A Yes sir, in the third regiment

Q And your best judgment is that Joe Lynch came back, in '68 or '69? A That is when I saw him.

Q And you were living there in that same neighborhood, and he located out there on a little prairie near the road that led to the store at which you traded, and where there was a black smith shop? A It was a big prairie, three or four miles across the neck of it, it reaches from there I expect to Chatopa. From my place back there is a woodland hilly place until you get down to where the house was, and there was a little prairie there where I lived but he lived on the main big prairie.

BY MR. HELL:

Q The place that you stayed up there in six mile bottom, was that that Dirteater place? A It was known as the Jim Daniel's place before the war, I bought it from the estate.

Q How is that six mile bottom situated with reference to the river?

A The river bends around it.

Q The river is on three sides of it? A Yes sir.

Q How in getting from your house to this store you speak about, there was only the one road? A Yes sir just one road.

Q There would have been no way of getting to your store by a road except by taking another road that didn't go in that direction? A No sir it went north.

Q But you went from your house to the store? A Yes sir, nearly due west according to the section road.

Q That was the only road with a direct route to the store? A Yes sir.

Q That road passes then 150 or 200 yards of the place that Joe Lynch built? A Yes sir, and I think he is living there yet.

Q The McCary store was at the Kall place? A Yes sir.

Q It was the only trading point in that immediate neighborhood?

A Yes sir, the only one anywhere around there.

Q If Buzzard had this house built there in '67, you think you would have seen it? A I knew I would because there was a little circumstance there, me and Walker Daniels got after a bull right there where he built that house, and right over the swag there, there in running him up there, he runed past him and the bull killed his horse or mare, hooked his insides out.

Q That was in '67? A Yes sir.

Q There was no house there then? A No sir the first that was built was built this side of there. That was before he put that up on the left hand side of the road as you went, a colored fellow fellow by the name of Beny Daniels, and the next was the house that Joe lives in.

- Q Then there was no other houses therein that country right then?
A No sir, no other house, I made a claim right across the next ridge and I let Andy Frye have that.
Q Nobody living in there? A No sir.
Q Indians or nobody else? A Nobody at all.
Q And it was in '68 or '69 before you discovered Buzzard there in this house? A My opinion is he didn't build a house there in '69, and he stayed a year in the bottom before he built a house.

BY MR. MORRIS:

- Q When was the first time that you saw Joe Lynch in the Cherokee Nation after the war? A It was over at Simon's in '68 or '69, I think '69.
Q You are not positive as to which? A No sir.
Q Now where was he when you saw him at that time? A He was in and around Uncle Simon's there on the place, he come in there with a pony team, and had a wife and child.
Q Were you present when he come? A No sir.
Q That was what you heard? A There wasn't but a few people there and when a man dropped in the neighborhood we knew he was a stranger, it wasn't settled like it is now, wasn't many people in the country.
Q Where was you living in the fall of '66? A I moved on this place that we were above referring to in that bottom east of where Joe Lynch built his place.
Q Now far with reference to where Simon Lynch lived at that time in '66 on your place? A There were two houses on the place he occupied, one of the houses from the house I lived in right across the hill north, I expect it was 150 or 200 yards, one of the houses that he was in, that he kept one of his wives in. He kept another house, I will tell you about that. It was about a quarter of a mile south of the place and he kept his other wife there.
Q Are you prepared to dispute the statement made by Simon Lynch and Joe Lynch, that Joe Lynch come to Simon Lynch's place where he was living in the fall of '66 on horse back? A If he did I didn't see him.
Q He come have come though without your having seen him, couldn't he? A I guess he could have without my seeing him, by coming in the night and going away.
Q Answer yes or no? A He could have come, but I never seen him.
Q I understood you to say in your examination in chief that you had no special acquaintance with Joe Lynch before the war? A No sir that is right.
Q Then the first time that you ever seen him to know him was sometime in the year 1868 or '69, is that correct? A Yes sir.
Q He could have been in and around Simon's at the time he said without your knowing him in view of the fact that you had no acquaintance with him? A He couldn't have been around there very much because I watched everybody pretty close them times.
Q Sometimes? A All the time.
Q You had no acquaintance with his family? A No sir, the first time I saw his wife she was at Simon's and had a child, and then they had one regular every year.
Q You never testified before in this case? A No sir.
Q You knew all about the facts that you are testifying to now in 1901 and 1902, didn't you? A Yes sir, of course I would have, I come acquainted with them in '67 and '68.
Q You knew these fact at the time the applicant made his application for enrollment? A Yes sir.
Q And you were not called upon at that time to testify? A No sir.

- Q When was the first time that your attention was called to the fact that you would be required to testify in this case, Mr. Clark? A I don't know, think it has been more than three or four weeks ago that I received a notice from the Commission that I was summons here in this case, and it read like I had testified in the case, but I couldn't recollect that I had testified in the case. I was very well acquainted with this fellow. He was hard up and we furnished him milk all of the time, my wife and I, and she knew him better than I did, he carried milk from our house all the time, we treated him as well as we could.
- Q Do you know how long Joe had been at Simon Lynch's at the time you first saw him in '68 or '69? A No sir, I couldn't say the exact time, might have been a week or two or maybe longer.

BY MR. HASTINGS:

- Q I believe you stated that you people sort of kept a watch on the people who came into the country immediately after the war?
- A Yes sir.
- Q It was necessary in those days, was it not? A Yes sir, very necessary.
- Q And for that reason you knew about everybody that came around in your neighborhood? A Yes sir I watched everybody.
- Q You know when you first saw Joe Lynch over at Simon's that he was a newcomer? A Yes sir, there was but a few of us and we knew when a new man came there.

BY MR. McNEA:

- Q Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866, are you prepared to state upon your own knowledge that he didn't return up there up there at that time?
- A No he did 't return up there, I aint prepared to say in the fall whether he returned there or not.
- Q You don't know whether he did or not? A No sir.

BY MR. HASTINGS:

- Q You know you never heard of him returning there in the fall of 1866? A No sir.

BY MR. McNEA:

Objected to for the reason that it is incompetent, irrelevant, and inadmissible.

COMMISSION: Objection noted.

BY THE COMMISSION:

- Q When did you first come up in that neighborhood where you are living now and where Joe Lynch lives now? A I aint living there now.
- Q You went there after the war? A I went there several times in the summer, I think I traded for the place along in August, during the summer of '67. Summer of '66 after this Treaty was made on the 19th of July, 1866.
- Q You moved up there close to where Joe Lynch now lives in December, 1867? A '66.
- Q December, 1866? A Yes sir.
- Q You knew Mr. Clark where Simon Lynch was living when you moved up there, did you? A Yes sir, I let him move over there on my place, after I got it.

- Q From your knowledge of the people and condition as they were and the nature of the country, can you state to this Commission positively that Joe Lynch and his family did not come to that neighborhood in the Cherokee Nation until about 1868? A 1868 or '69.
- Q If at any time after December, 1866, the applicant and his family had come to that portion of the Cherokee Nation, you think you would have known it? A Yes sir, known it after a day.
- Q You don't know as to whether or not Joe Lynch himself might not before at Simon Lynch's horse back in the fall of '66 and stayed three days as they claim? A Might have been at Simon's, but he wasn't living there in the fall, he was over at the other place about six miles from there, he might have been there. This road that I stayed told you that runs to this trading point, he lived about a mile from that down in the bottom, right above where the Military road crossed Cabin Creek.
- Q How far from where he lives now? A I suppose it is four or five miles on a direct line now since the lines were run out.
- Q Did you ever have a conversation with Joe Lynch shortly after he returned there with reference as to whether or not that was his first trip to the Cherokee Nation after the war? A No sir.
- Q You never heard him say whether or not that was his first trip? A I don't know as I ever did.
- Q Do you know whether in the fall of 1866 that he made any foundation of a house? A He never made none there where he is living now.
- Q How old was this child that Joe Lynch and his wife brought there with them? A It seemed to be in his wife's lap.
- Q A year old probably? A I don't think it was a year old. I don't think he let them get a year old before he had another one.

CASE CLOSED.

H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct copy of his stenographic notes there of.

(Signed) H. M. Vance

Subscribed and sworn to before me this 14 day of December, 1904.

(SEAL)

(Signed) Charles H. Sawyer
Notary Public..

Maggie Kennedy, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

Maggie Kennedy

Subscribed and sworn to before me this the 23rd day of December 1904.

Charles H. Sawyer
Notary Public.

FILED
DEC 17 1904
COMMISSION TO FIVE TRIBES.

Cherokee Freedman D-429

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., NOVEMBER 22, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Nancy Carls, et al., as Cherokee Freedmen.

APPEARANCES:

Applicant appears by Attorney, A. S. McRae,
Cherokee Nation by W. W. Hastings.

BY MR. MARRA:

Comes now the attorney for the applicant and asks that a copy of the testimony taken in the matter of the application of Joe Lynch, et al., Cherokee Freedman D-376, be made a part of the record in the matter of the application for the enrollment of Nancy Carls, et al. Cherokee Freedman D-429.

BY THE COMMISSION:

The request of the attorney for the applicant will be complied with and copies of the testimony referred to will be filed with and made a part of the record in this case.

H. M. Vance, being duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full all proceedings had in the above entitled cause on the 11th day of November, 1904, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said date.

Subscribed and sworn to before me this 17 day of December, 1904

Charles J. Seymour
Notary Public

THE ... OF ...

and ... the ... of ...

... of ...

... of ...

...

JOR

Cherokee F-D-429.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHEROKEE LAND OFFICE.
Tahlequah, I. T., March 7, 1905.

In the matter of the application of Nancy Curis for the enrollment of herself and child, Lula Buffington, as Cherokee Freedmen. No. F.D-429.

LULA DABNEY, being duly sworn and examined by the Commission, testified as follows:---

- Q What is your name? A Lula Dabney, is my name. I was enrolled Buffington.
Q How old are you? A I am 17.
Q What is your post-office? A My post-office is Wimer.
Q Are you a Cherokee Freedman? A Yes sir.
Q What is your mother's name? A Nancy Curis.
Q Have you married since she applied for you? A Yes sir.
Q What is your husband's name? A Ed Dabney.
Q When were you married? A 1902, October 25.
Q Are you and he living together now? A Yes sir.
Q Is he a citizen of the Cherokee Nation? A No sir, citizen of the United States.

Joe Chambers, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony in this case, and that the above and foregoing is a true and complete copy of his stenographic notes.

Subscribed and sworn to before me
this 8th day of March, 1905.

Joe Chambers

Notary Public.

JC

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al.,
for enrollment as Cherokee freedmen, consolidating the applications
of:

Joe Lynch et al	Cherokee Freedmen D 376
Hester Foster et al	Cherokee Freedmen D 383
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Benton et al	Cherokee Freedmen D 387
Nancy Curle et al	Cherokee Freedmen D 429
Rachel Downing et al	Cherokee Freedmen D 430
Kartha Lynch et al	Cherokee Freedmen D 1077.

D E C I S I O N.

The record herein shows that applications for enrollment, as Cherokee freedmen, were made to this Commission by Joe Lynch for himself, his wife, Sophia Lynch, and minor children, Eliza, Cynthia, J. Randolph, Ruth and Jackson Lynch; by Hester Foster for herself and minor children, James, Pearlle J., Ethel J. and Josephine Foster; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission showing the birth of Arthur Foster; by Arthur Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and minor child, Lula Buffington; by Walter Downing for himself and wife, Rachel Downing; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Herbert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Kartha Lynch for herself and minor children, Jessie W. and Lee B. Lynch.

The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1866 and are descendants of and, with the exception of Herbert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of none of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Herbert Downing was born April 26, 1902; that he is the son of Walter Downing who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored," and that the said Walter Downing, father of said Herbert Downing, has continuously resided in the Cherokee Nation since 1880.

It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Wester Foster, James Foster, Pearl J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Vina Benton, Stella Benton, Nancy Carla, Lula Hurrington, Rachel Downing, Martha Lynch, Jessie M. Lynch and Lee B. Lynch as Cherokee freedmen should be denied under the provisions of section twenty-one of the act of Congress approved June 25, 1896 (30 Stats., 495); and it is further the opinion of this Commission that the said Herbert Downing should be enrolled as a Cherokee freedman, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Signed.	James Bixby,	Chairman.
Signed.	T. B. Needles,	Commissioner.
Signed.	C. R. Breckinridge,	Commissioner.
Signed.	W. R. Stanley,	Commissioner.

Muskogee, Indian Territory,

this Mar 5, 1904.

A. F. No.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Joe Lynch, et al., as Cherokee Freedmen, consolidating the appli-
cations of:

Joe Lynch et al.	Cherokee Freedmen	D	376
Robert Foster,	"	D	522
Hester Foster et al.,	"	D	383
Arthur Lynch,	"	D	384
Cyrus Lynch	"	D	385
John Lynch	"	D	386
Vina Benton et al.,	"	D	527
Nancy Guris et al.,	"	D	429
Rachel Downing et al.,	"	D	430
Martha Lynch et al.,	"	D	1077.

-: D E C I S I O N :-

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Joe Lynch for himself and wife, Sophia Lynch, and minor children, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlis J. (Jane), Ethel J. (Jane) and Josephine Foster; thereafter, on October 20, 1902, there was filed with this Commission an affidavit showing the birth, on March 22, 1901, of Arthur Foster, child of the applicant, Hester Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Guris for herself and illegitimate minor child, Lula Buffington; by Walter Downing for himself, and

wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; thereafter, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 26, 1902, of Hurbert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Lee B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Lee B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Hurbert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on Motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 18, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitacre, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curle, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Lee B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said appli-

cants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Hurbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, Jehn and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curle and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedman enrollment cards No. D 429 and D 1077, it appears that one Jehn Buffington is the father of the said applicant, Lula Buffington, and that one Watson Hicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Leo B. (Bennett) Lynch. But one Jehn Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 558-R 271), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Hicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I. T. D. 544-04), William Rector (I. T. D. 1468-04) Minnie Duncan, et al. (I. T. D. 1470-04), Samantha Chambers (I. T. D. 2296-04), Ed Williams (I. T. D. 4230-04), Martha Albert, et al. (I. T. D. 4732-04) and Moses Ross (I. T. D. 6056-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Hester Foster, James Foster, Pearlle J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and Jehn Lynch, Vina Benton and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Leo B. (Bennett) Lynch; as Cherokee freedmen should be denied, under the provisions of section twenty-one of the Act of Congress below noted; and that Hurbert Downing

should be enrolled as a Cherokee freedman, in accordance with the provisions of section twenty-one of the Act of Congress approved June 22, 1896 (30 Stat. 495), and it is so ordered.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

(Signed) Tommy B. B. B.
Commissioner.

(Signed) T. B. Needles
Commissioner.

(Signed) C. B. Brockington
Commissioner.

Dated at Muskogee, Indian Territory,

this JUN 14 1905

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901.

Given under my hand this
day A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
day of 1901.

A. J. McLean
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me
this day of A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 12 1901

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Nancy Curle
for enrollment as a Cherokee Freedman:

Case No. F. D. 429

To Nancy Curle or A. S. McRea

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct. 1st
A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen. at 8 o'clock A. M.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 12th day of Sept., 1901.

L B Bell

Attorneys for the Cherokee Nation.

Cherokee Freedmen
D 429

Muskogee, Indian Territory, May 17, 1904.

Nancy Curls,

Chelsea, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., rejecting, among others, your application for the enrollment of yourself and your minor child, Lula Buffington, as Cherokee freedmen. There has this day been forwarded to your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Jams Dixby.
Chairman.

Encl. V-40

Register.

000

Cherokee Freedmen
D 276, et al.

Muskogee, Indian Territory, May 17, 1904.

A. S. McRae,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 384, 386, 387, 429 and 430, together with a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Arthur Lynch, John Lynch, Vina and Stella Denton, Nancy Carlis, Lula Buffington and Rachel Downing, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 276 and 383.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. V-44
Register

W. H. Murray
Chairman.

Cherokee Freedmen
D 278, et al

Muskogee, Indian Territory, May 17, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Joe Lynch, et al., including the Commission's decision dated April 20, 1904, granting the application for the enrollment of Herbert Downing as a Cherokee freedman and rejecting the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Hamolph, Ruth, Jackson, Arthur and John Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Vina and Stella Denton, Nancy Carls, Lula Buffington, Rachel Downing, and Martha, Jennie M. and Lee B. Lynch as Cherokee freedmen.

Respectfully,

Jame Bixby.

Encl. V-48

Chairman.

Through the
Commissioner of Indian Affairs.

Refer in reply
to the following:
Lmd.
33874-1904.

(COPY)

GFL

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

July 15, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized tribes dated May 17, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Joe Lynch for himself, his wife, Sophia Lynch and his five minor children, Eliza, Cynthia J. Randolph, Ruth and Jackson Lynch; of Hester Foster for herself and her four minor children, James, Pearlle J. Ethel J. Josephine and Arthur Foster; of Arthur Lynch for himself; of David Benton for his wife, Vina Benton, and minor child, Stella Benton; of Nancy Curle for herself and her minor child, Lula Buffington; of Rachel Downing for herself and her minor child, Herbert Downing; and by Martha Lynch for herself and her minor children, Jessie M. and Lee B. Lynch.

March 5, 1904, the Commission decided that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that none of the applicants are identified on the 1880 authenticated Cherokee roll, but all who were then living are found on the roll of citizens of the

Cherokee Nation; that the applicants, Joe Lynch and his wife Sophia Lynch were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and returned prior to February 11, 1867, established a home and have resided in the Cherokee Nation to the date of the record. The other applicants are descendants of Joe and Sophia Lynch and their sole title to enrollment is derived from them. The only question in the case appears to be when Joe and Sophia Lynch returned to the Nation, and the testimony of Joe Lynch is sustained by that of Allen Lynch and Anderson Lynch who swear that he returned prior to February 11, 1867.

On the part of the Cherokee Nation, C. L. Lynch testifies that he did not see the principal applicant, Joe Lynch, until 1901; Joseph L. Thompson that he did not see him until 1868; Walter A. West, did not see him until 1868.

The witness, Rees Craven, introduced by the Cherokee Nation, swears that he knew Joe and his wife, Sophia Lynch in Iola, Kansas, from 1866 to 1874 or 5, and they had twenty-two children at that time. The testimony of this witness is not satisfactory and in pertinent particulars he appears uncertain.

It appears that the Cherokee Nation conceded from the testimony of their own witnesses that Joe Lynch was in the Nation in 1868 with his wife, Sophia and Children, and as it is shown in evidence that Sophia was but seventeen years of

age at that date, the testimony of the witness, Evans, that she had twenty-two children at any time when he swears that he knew them, between 1884 and 1875, is a manifest falsehood.

In view of the record it is recommended that the Commission's decision adverse to the applicant be reversed, and the applicant enrolled as George Washington Freeman.

Very respectfully,

A. H. Tanner

Acting Commissioner.

H. H. H.

H.

H. H. H.

D.C. 15423-1904.

I.F.
711

I.T.D. 5794-1904.

CONF.

DEPARTMENT OF THE INTERIOR,

LRS

WASHINGTON,

July 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

July 15, 1904, the Acting Commissioner of Indian Affairs submitted the Cherokee freedmen case consolidating the applications of Joe Lynch, et al; Hester Foster, et al; Arthur Lynch; John Lynch; Vina Benton, et al; Nancy Curle, et al; Rachel Downing et al; and Martha Lynch, et al, and recommended that your decision adverse to the applicants be not concurred in and that you be directed to enroll such applicants.

Accompanying the papers is a motion for a rehearing, filed in the Indian Office by Joe Lynch for himself and the other applicants who claim through him, with letter from George F. Fogle, of Vinita, Indian Territory, of June 6, 1904, which is not mentioned by the Acting Commissioner.

The Department does not feel warranted in reversing your decision upon the testimony presented.

The motion for rehearing bears no evidence of service upon the attorney for the Cherokee Nation, but in view of the showing made thereby, and particularly of the recommendation of the Indian Office, the Department deems it advisable to order a rehearing in the case, and the same is hereby directed.

A copy of the Acting Commissioner's letter, and the testimony with papers attached, also the application for rehearing with affidavits attached, are inclosed.

Respectfully,

(Signed) Theo. Ryan.

Acting Secretary.

3 inclosures.

(C O P Y)

Cherokee Freedmen
D 429

Muskogee, Indian Territory, August 10, 1904

Nancy Gurla,

Chelsea, Indian Territory.

Dear Madam:

In the matter of your application for the enrollment of yourself and child as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of July 21, 1904, remanding the Commission's decision of April 20, rejecting your said application.

It is stated in said letter that the Commissioner of Indian Affairs recommends that the Commission's decision be reversed and the applicants be enrolled as Cherokee freedmen, and according to instructions contained therein you are hereby advised that you will be allowed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Monday, September 19, 1904, and introduce the testimony of such witnesses as you may be able to procure in support of your said application.

Respectfully,

Register

Commissioner in Charge

(COPY)

Cherokee Freedmen
D-429

Muskogee, Indian Territory, October 14, 1904

Nancy Curls,

Chelsea, Indian Territory.

Dear Madam:

In the matter of the application for the enrollment of yourself and your minor daughter, Lula Buffington, as Cherokee freedmen, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A.M., on Tuesday, November 22, 1904, at which time you will be permitted to appear and introduce such testimony as you may desire in support of said application.

Respectfully,

(Signed) T.B. NEEDLES

Commissioner in Charge.

Register.

COPY.

Cherokee Freedmen

D-429.

Muskogee, Indian Territory, June 16, 1905.

Nancy Curle,

Chelsea, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for the enrollment of yourself, et al., as Cherokee freedmen. There has heretofore been furnished your attorney, A. S. McRae, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

SIGNED *Tame Dixby.*
Chairman.

Incl. S-28
Register

COPY.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

A. S. McRea,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Hurbert Downing, and rejecting, among others, the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(Signed)

Tame Dixby
Chairman.

Incl. S-31.
Register

COPY.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-33.

SIGNED,

James Bixby
Chairman.

COPY.

Cherokee Freedmen
D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee freedmen, including the Commission's decision dated June 16, 1905, granting the application for the enrollment of Hubert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

On July 21, 1904, the Department remanded this case for rehearing and readjudication.

Respectfully,

Incl. 8-34.

Through the

Commissioner of Indian Affairs.

(SIGNED).

Tamm Birby
Chairman.

J.Y.Jr.

DEPARTMENT OF THE INTERIOR, LLS
WASHINGTON.

I.T.D. 8180-1905.

January 4, 1907.

8906- "
8829- "
8737- "
8759- "

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 11, 1906 (Land 47227), the Indian Office submitted the record in the matter of the application for enrollment as Cherokee freedmen by Joe Lynch for himself and wife, Sophie Lynch, and minor children, Eliza, Cynthia Jane, Randolph, Ruth, and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearl, Jane, Ethel Jane, Josephine, and Arthur Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Gurls for herself and illegitimate minor child, Lela Buffington; by Walter Downing for his wife, Rachel Downing, and his minor child, Herbert Downing, and by Martha Lynch for herself and her illegitimate minor children, Jesse May and Lee Bennett Lynch, including the decision of the Commission to the Five Civilized Tribes dated June 16, 1906, favorable to Herbert Downing and adverse to all the other applicants.

-2-

There appears to be no proper reason for granting said motion, and it is hereby denied.

The Department concurs in the recommendation made, and the Commission's decision is hereby affirmed.

The papers in the case, including said motion for review, have been sent to the Indian Office for its files.

Respectfully,

(Signed) Thos. Ryan,

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 3 to Ind. Of.

Cherokee P.
D-489

Muskogee, Indian Territory, January 18, 1907.

Nancy Curls,

Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for the enrollment of yourself and child, Lula Buffington, as Cherokee freedmen, was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the Cherokee freedmen enrollment case of yourself, et al., filed by your attorneys September 7, 1905, denied.

Respectfully,

JMH

Commissioner.

Sherokee P.
D-376 et al.

Muskogee, Indian Territory, January 18, 1907.

Blue & Bulger,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Hurbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed by you September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. N-54
JMK

Commissioner.

Cherokee F.
B-376 et al.

Muskogee, Indian Territory, January 18, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. N-55
JMH

Commissioner.

JSLr.

DEPARTMENT OF THE INTERIOR, LLB

D.C.1778-1907
I.T.D.8180-1908
8906- "
8529- "
8737- "
8739- "

WASHINGTON.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 11, 1905 (Land 47227), the Indian Office submitted the record in the matter of the application for enrollment as Cherokee ~~freemen~~ by Joe Lynch for himself and wife, Sophie Lynch, and minor children, Eliza, Cynthia Jane, Randolph, Ruth, and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle Jane, Ethel Jane, Josephine, and Arthur Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curls for herself and illegitimate minor child, Lula Buffington; by Walter Downing for his wife, Rachel Downing, and his minor child Herbert Downing, and by Martha Lynch for herself and her illegitimate minor children, Jessie May and Lee Bennett Lynch, including the decision of the Commission to the Five Civilized Tribes dated June 16, 1905, favorable to Herbert Downing and adverse to all other applicants.

There appears to be no proper reason for granting said motion, and it is hereby denied.

The Department censures in the recommendation made, and the Commission's decision is hereby affirmed.

The papers in the case, including said motion for review, have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 incl. and 3 to Ind. Of.

73

A. T. ...

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 29 1901


ACTING CLERK

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date *May 29, 1901*
 Post Office *Chillicothe, Mo.*
 District *600*

1. Name *Polly Gade,* Age *30*
 Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father *Robert Gade* Citizenship _____

Mother _____ Citizenship _____

11. Name of wife *Nancy Lynch Gade* Age *30*

Owner's name _____ Citizenship _____

Year *Wallace* Page *123* No. *2587* District *del*

Parents:

Father *Joe Lynch - living* Citizenship _____

Mother *Sophia* " " " " Citizenship _____

Names of Children:

22. *Lula Buffington* Year _____ Page _____ No. _____ Dist. *14*

4. Year _____ Page _____ No. _____ Dist. _____

5. Year _____ Page _____ No. _____ Dist. _____

6. Year _____ Page _____ No. _____ Dist. _____

7. Year _____ Page _____ No. _____ Dist. _____

8. Year _____ Page _____ No. _____ Dist. _____

9. Year _____ Page _____ No. _____ Dist. _____

10. Year _____ Page _____ No. _____ Dist. _____

11. Year _____ Page _____ No. _____ Dist. _____

12. Year _____ Page _____ No. _____ Dist. _____

Application made by *Ms. 1*

Stenographer *E. J. Rotherburg*

*1 On Wallace roll as Nancy Lynch.
 2 aff. of birth required.*

X 1 13 3 76

A. S. McPherson, agent for applicants.

X 1 13 3 76 (and only)

71 1007 1

2000 TABLE

20

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Nancy Curls,

Chelsea, I.T.

Cherokee F-1-429

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

Cher. Fr. R. 887

Trans. from. C. Fr. D. 430

Cher. Fr. R. 887

~~1~~ a. J. J. 233

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To be filed in the case of Rachel Downing (DOUBTFUL)

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. April, 10th 1901,
May

In the matter of the application of Walter Downing for the enrollment of himself and his wife as Cherokee Freedmen; he being sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A. Walter Downing.
Q What is your age? A. 31.
Q What is your present office address? A. Chelsea.
Q What district do you live in? A. Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A. Yes sir.
Q Who do you want to enroll besides yourself? A. My wife.
Q What is your wife's name? A. Rachel.
Q How old is she? A. 31.
Q What is her father's name? A. Jow Lynch.
Q Is she living? A. Yes sir.
Q What is her mother's name? A. Sophia.
Q Is she living? A. Yes sir.
Q How many children? A. No sir.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant identified thereon as follows:
Page 343, No. 761, A, Walter Downing, Delaware district.

- Q Is your wife on the roll of 1880? A. I don't know.
Q Is her father's name on the roll of 1880? A. I don't know.
Q Is her father here? A. No sir he is at Vinita.

The 1880 authenticated roll of the Cherokee Nation examined and the applicant's wife not identified thereon.

- Q You don't know anything about your wife's citizenship? A. She was born here.
Q Is her mother here? A. Her mother is at home.
Q Have you always lived in the Cherokee Nation? A. Yes sir.

The 1896 census roll of the Cherokee Nation examined and the names of the applicants not identified thereon.

The Kerns Clifton roll of the Cherokee Nation examined and the name of the applicant identified thereon as follows:
Page 4, No. 76, Walter Downing, Delaware district.

The Kerns Clifton roll of the Cherokee Nation examined and the name of the applicant's wife not found thereon.

- Q Have you a certificate of your marriage? A. Yes sir it is at home.
Q When were you married? A. Last November, the 20th of November.
Q Who married you? A. Preacher Ree.
Q He gave you a certificate did he? A. Yes sir.

By Com'r Needles. - Walter Downing applies for the enrollment of himself and his wife. He is duly identified on the authenticated roll of 1880 and the Kerns Clifton roll. He avers that his wife Rachel is the child of Joe and Sophia Lynch, her name is not found on the authenticated roll of 1880 or on any of the rolls in the possession of the Commission at this time. The applicant avers that he was married to the said Rachel but presents no certificate or proof of his marriage. He is duly identified and makes satisfactory proof as to residence and he will be listed for enrollment as a Cherokee Freedman. The name of his wife Rachel will be placed on a doubtful card to await the further consideration of the Commission. It will be necessary for

Walter Downing 2.

him to file with the Commission proof of his marriage to his wife.

=====

Mhas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas. von Weise

Subscribed and sworn to before me this the 15th of May, 1901, at Vinita I. T.

M. D. Green

H. P. [unclear]

File with Cherokee Freedmen 430. Rachel Downing

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I-T., May 21, 1901.

In the matter of the application of Joe Lynch for the enrollment of himself and wife and five children as Cherokee Freedmen; being sworn and examined by Commissioner Brackinridge, he testified as follows:

- Q Give me your name? A Joe Lynch.
Q How old are you? A I guess about 60 years old.
Q What is your postoffice? A Vinita.
Q In what district do you live? A Delaware.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A Yes sir, wife.
Q Any children? A Yes sir.
Q How many? A I have got the names and ages. (Produces paper)
Q You have six children under 21 years of age have you? A Yes sir.
Q The eldest one of these six is Viney? A Yes sir.
Q Are any of this six that we are talking about married? A No sir.
Q How long have you lived in the Cherokee Nation? A All my life, bred and born here.
Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
Q Give me the name of your father? A I don't know him, I never did see him.
Q Give me the name of your mother? A I don't know her, but she was named Viney; but she is dead.
Q Been dead many years? A Yes sir.
Q To whom did you belong before the war? A Joe Lynch.
Q He was a Cherokee citizen? A Yes sir.
Q You was his slave at the beginning of the war? A Yes sir.
Q Give me the name of your wife? A Sophia.
Q How old is your wife? A I guess she is about 45 years old.
Q When were you and she married? A I couldn't say when we did marry, hardly.
Q Well, ~~xxxxxxxxxxxxxxxx~~ long time ago? A Yes sir.
Q Before any of these children were born? A Yes sir.
Q She must be more than 45? A She must be more than that.
Q Is she the mother of your oldest child? A Yes, sir.
Q That child is 32? A She must be older than that then I guess.
Q Maybe about 60 isn't she? A Yes.
Q You know the name of her father? A No sir.
Q Did you know the name of her mother? A Yes sir.
Q What is it? A Her mother was named Chassey Ross, she is dead.
Q Has she been dead very many years? A Yes sir.
Q More than 80 years? A She died time the war was going on, I think.
Q To whom did your wife belong? A Belonged to Susan Ross.
Q She was a Cherokee citizen? A Yes, sir.
Q And your wife was a slave in the Cherokee Nation when the war started? A Yes sir.
Q Now these six children for whom you apply, the oldest one is named Viney? A Yes sir.
Q That child is 16 years old, isn't she? A Yes sir.
Q Then Eliza is that the next one? A Yes sir.
Q She is 16 years old, isn't she? A Yes sir.
Q Cynthia Jane, that's the next one isn't it? A Yes sir.
Q She is 16 years old? A Yes sir.
Q Then comes Randolph, is that it? A Yes sir.
Q Randolph is 16, is that right? A Yes sir.
Q Then comes Ruth? A Yes sir.
Q She is 13 isn't she? A Yes sir.
Q Then comes Jackson, he is 11 isn't he? A Yes sir.

Q And that's your last one? A Yes sir.

Q Are these children all living now? A Yes sir.

Q Are you on the 1880 roll? A No sir.

Q None of your family on the roll of 1880? A No sir.
1880 authenticated roll of citizens of the Cherokee Nation
examined and applicants not found;
1886 census roll of citizens of the Cherokee Nation
examined and applicants not found.

Q None of your family are on the 1886 roll? A No sir.

Q Did you draw Strip money for yourself and family at the big
payment? A No sir, I drew at the first payment.

Q Then none of you are on the Kerns-Clifton roll? A No sir.
Kerns-Clifton pay-roll of citizens of the Cherokee Nation
examined and applicants not found.
Wallace roll of citizens of the Cherokee Nation examined
and applicants identified as follows:
page 123 #2584 Joseph Lynch, Delaware District;
page 123 #2585 Sophia Lynch, Delaware Dist;
page 125 #2596 Vina Lynch, Delaware Dist.

Com'r to roll clerk: What is the last one you have got there?

A Yes sir.

Q Why are you not on the roll of 1880? A Well sir, I couldn't
tell you how come I wasn't on.

Q Neither you or your wife, did you apply to have yourself put
on that roll? A Yes sir.

Q And they wouldn't put you on, either one of you? A No sir.

Q Did they tell you why? A No sir.

Q Well then none of you are on the roll of 1880? A No sir, I
guess not.

Q Do you know the reason of that? A No sir.

Q Why did they refuse to put you on the Kerns-Clifton roll, all of
you? A I couldn't tell you that, only when I asked them they said
it was just through an oversight.

Q Where did you go during the war? A I went to Kansas.

Q Did your wife go with you? A No sir.

Q Did she ever go to Kansas with you? A Yes sir, she went after I
did I think, or a little before; she was a little bit of a girl.

Q I just want to know whether she went to Kansas with you?

A No sir.

Q Where did you marry her? A In Kansas.

Q You have got a child named Hester? A Yes sir.

Q Where was that child born? A They were all born and raised here.

Q I asked you about Hester, was Hester born in the Cherokee Nation?

A Hester wasn't, Hester was my baby.

Q Well, where was Hester born? A I believe she was - -

Q Born in Kansas? A Yes sir.

Q Hester is 32 years old now? Is she? A I guess so, I don't know
the age myself.

Q That is the age you have got on this memorandum? A Yes, I got
a fellow to put the age down. Just had to make a guess at it.

Q Where was Hester born? A Born here in the Cherokee Nation. Out
here on the Delaware, right where I am living at.

Q All these other children where were they born? A All of them
was born right there.

Q In the Cherokee Nation? A Yes, sir.

Q Your wife didn't go to Kansas when you went there? A No sir.

Q You were married to her when you went to Kansas? A No sir.

Q When did she go to Kansas, when did you see her up there?

A I saw her there along in '63.

Q Where did you see her? A I saw her there about Allen County,
there.

Q How long did you know her before you and she got married?
 A I guess I must have known her about 6 or 7 years I expect.
 Q Did you know her before she went to Kansas? A I knewed her people, they lived right then below there --
 Q I am asking you if you knew her? A Yes, I knew her: she was just a little bit of a girl then.
 Q You knew her before she went to Kansas? A Yes sir.
 Q How long had she been in Kansas before you married her, how long was it after she got there before you married her? A I guess she had been there, I expect about four years.
 Q She had been there about four years and then you and she married there? A Yes sir.
 Q How old was your child, Hester, when you and your wife came back to the Cherokee Nation? A Oh she was just a young thing, just a little bit of a girl.
 Q Only a few months old? A Yes sir.
 Q How long after you married your wife before Hester was born?
 A It wasn't long.
 Q More than a year? A No sir, I guess it must have been about nine months before she was born I guess.
 Q So you and your wife came back to the Cherokee Nation then about a year after you were married? A Yes sir.
 Q Because Hester was born and was a baby some months old? A Yes sir.

It now being the noon hour the Commission adjourns until 1 o'clock pm.

M. B. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Signed, M. B. Green,

Subscribed and sworn to before me this May 22, 1901.

Signed, C. R. Breckinridge,
 Commissioner.

It now being the hour of one o'clock P.M. May 21st 1901, and the Commission having been called to order, the application for the enrollment of Joe Lynch et al. is continued as follows:

W. V. Hastings for the Cherokee Nation.
 A. S. Moffa, attorney for the applicants.
 C. R. Breckinridge, Commissioner presiding.
 Chas. von Weisse, Stenographer.

JOE LYNCH, the applicant herein, re-called and examined as follows by Commissioner C. R. Breckinridge:

Q I understand that you desire to make a correction in your testimony given in this morning? A Yes sir.
 Q When you testified that your child Hester was born in Kansas?
 A Yes, sir, I made a mistake there.
 Q You testified, as I recollect it, that the child Hester was born in Kansas and was a few months old when you came from Kansas after the war and came into the Cherokee Nation? A Yes sir, but she was born at the Cherokee Nation, all of them was born here, I just made a mistake this morning.
 Q Did you bring your wife back from Kansas? A Yes sir.
 Q When you first came back from Kansas, did you bring your wife with you? A Yes sir.
 Q Do you mean to say that you don't remember if she brought any thing with her? A Well when I first came I first come by myself

horseback and didn't bring her with me.

By Gen'l Breckinridge: I want to warn you that you have made some very positive statements in regard to your coming here after the war and that when you testified this morning you said that you were positive that when you first came back to the Cherokee Nation from Kansas after the war that you brought your wife with you and that she had a baby in her arms at the time that was born in Kansas just a few months before you started, and now you come and desire to change all that and I simply desire to warn you that you are under oath and that you are to consider well what you intend to swear to for if you do not swear the truth you are liable to get yourself into trouble, very serious trouble in fact.

Q You say now that when you came here the first time from Kansas directly after the war, that you came by yourself on horseback and that your wife was not with you then? A No sir she was not.

Q And you also desire to correct your statement of this morning wherein you stated that when you and your wife came down here from Kansas, she had a baby in her arms? A No sir she did not, I made a mistake in that, the baby was born since then, she was born in the Cherokee Nation.

Q You say now you first came by yourself? A Yes sir on horseback to look out a location.

Q When did you come here by yourself, and where did you come to?

A On Grand river pretty close to where I am living now, and located me a place.

Q When was that? A November of '66.

Q Did you come down there then to prepare a place for yourself and family? A Yes sir, for me and my wife.

Q What work did you do there that time? A Located me a claim and laid the foundation for me a house.

Q What else did you do? A Never did nothing else then.

Q How long did you stay there before you went back to Kansas?

A Not very long.

Q Did you stay there until Spring? A No sir, maybe a week or two.

Q And then what did you do? A Then I goes back and gets my woman and comes down and builds my house.

Q What time was it you say you first come there? A It was in November.

Q How did you bring your wife when you come with her? A In a wagon.

Q Just you and your wife? A Yes sir.

Q Nobody else? A No sir.

Q Did you go right back to Kansas and get your wife and bring her right straight back here? A Yes sir.

Q Your daughter Vina is married is she? A Yes sir.

Q So you made a mistake there also when you said this morning that the children you applied for were all under age and living with you at this time? A Yes sir I made a mistake there, Vina is married, she has not been married very long and I had forgotten that she was.

By Gen'l Breckinridge: So the application for her will not be continued, as she will have to apply for herself or be applied for by her husband.

By A. S. McRea, attorney for the applicant:

Q Mr. Lynch, you say that you were born in the Cherokee Nation?

A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where to? A Kansas.

Q When did you return to the Cherokee Nation? A In '66 in November.

Q Where did you first come to the Cherokee Nation when you returned the first time from Kansas? A I located right where I am living now, on the river in Delaware district in the Territory.

Q In the Cherokee Nation? A Yes sir.

Q Who were your owners before the war? A Joe Lynch.

Q You say that you laid the foundation of your house preparatory to

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the moving of your family, your wife, from Kansas, when you came here that first time by yourself on horse-back and then went back and got your family? A Yes sir went back for my woman.

Q How long had it been before you returned to the Cherokee Nation after you got back to Kansas that time? A I can't tell just exactly - I don't know just how long - it has been so long that I had done forget just the exact time.

Q Was it in December of the same year or in the January of the next year, in 1867 - was in in December of '66 or in January of '67, in other words, how long did you stay in Kansas before you came back to the Cherokee Nation after you had been here and located your claim and laid the foundation of your house preparatory to moving your family here, and then went back up there? A I don't think I was in there more than two months before I returned here with my wife.

Q Have you lived in the Cherokee Nation continuously ever since that time that you came back here with your wife? A Yes sir.

Q Did you and your wife belong to the same owners before the war?

A No sir, my wife belonged to Susan Ross.

Q Were you and she married before the war? A No sir.

Q When were you and she married? A After the war.

Q After the war closed? A Yes sir after the war closed.

Q Is your name on any of the authenticated rolls of the Cherokee Nation? A No, sir, not been able to find it on that, but it is on the Wallace roll.

Q Can you tell why it is not on the roll of 1880? A No sir I don't know.

Q Did you make application for enrollment then? A Yes sir I applied as a Cherokee Freedman when the census takers come round to the houses then.

Q Did you get on the roll then? A I can't tell if they put me on then or not, if they did they scratched me off again.

Q Was you rejected that you know of? A No sir.

Q You say you have lived continuously in the Cherokee Nation ever since November of December of 1866 up until now? A Yes sir I has lived here ever since then till now.

By W. W. Hastings, Cherokee Representative:

Q You were in here before dinner were you not? A Yes sir.

Q And you testified then that you brought your family with you when you came back from Kansas - your wife and one child? A No sir I did not bring any child, I made a mistake then; I don't know what I did say then.

Q You have found out since going to dinner and talking with your lawyer, that the age of your oldest child would be enough to have her born here, in other words, that she could not be the age you give in for her, and be a month or two old at the time you say you come back from Kansas - in '66? A No sir I hadn't talked it none, I just made a mistake in giving in the ages, I remembers now that that child was not borned when, she was borned after we got here.

Q Wasn't that oldest child born in Kansas before you come back to the Cherokee Nation? A No sir, it wasn't.

Q You testified that it was didn't you before the Kerns-Clifton Commission some five years ago? A No sir not of it being born in Kansas.

Q Didn't you swear then that you brought that child back with you when you and your wife come to the Cherokee Nation from Kansas right after the war? A No sir I don't know what I testified there.

Q Didn't you testify before the Kerns-Clifton Commission that you had this one child when you left Kansas after the war to come to the Cherokee Nation and that you brought it with you? A No sir I never told them fellers that.

Q You never swore that? A No sir.

Q Where did you live before the war? A Well sir, I lived in

-3-
Saline district with Len Lynch's father.

Q To have seen Len Lynch around here, the one that lives on Grand river, haven't you? A Yes, sir, that is my young master.

Q He was living there when you came back wasn't he? A No sir, I was in Flint.

Q Didn't he live in Flint? A I don't know where he lived then.

Q Was he living in Saline? A I was not in Saline.

Q Didn't you come back to the old Joe Lynch place? A No sir, I come back and located on this side of the river from the old place.

Q Didn't you swear before the Kerns-Clifton Commission that you come back to the old Lynch place? A No sir I never.

Q You're saying going back to the old place then? A I told you that I never went there.

Q Who were your neighbors there? A Daniel Landrum.

Q Who else? A Davis.

Q What Davis? A I don't know nothing but Davis, he was a full blood Indian.

Q Where did George Clerk live? A Well George Clark lived away up there on Grand river.

Q How far from you? A Well I don't know exactly, I can't tell how many miles it was.

Q He wasn't your near neighbor then? A No sir.

Q Didn't you testify before that he was? A No sir.

Q Do you know Watt West? A Yes sir.

Q How far did he live from you then? A I never seed him then.

Q How long after that before you saw him? A I don't know exactly.

Q How far does he live from you now? A 15 or 16 miles as near as I can tell.

Q Where did you make your first crop after you got back from Kansas?

A The first crop I made was on a little bit of land I had rented from a full blood Indian.

Q What was his name? A Joe Dirtwater.

Q Was that in Saline or Delaware? A That was in Saline.

Q How far from where you now live? A 4 or 5 miles, I don't know exactly.

Q Do you live in Delaware district now? A Yes sir.

Q How long did you stay in Saline, before you moved to Delaware district? A I never lived there at all, I just rented a piece of ground there and went over on horse back and worked it.

Q So you have lived practically on the same place that you now live ever since your return from Kansas? A Yes sir.

ALLEN LYNCH, called and sworn by Commissioner Breckinridge, testified as a witness on the part of the applicant:

Examined by Commissioner Breckinridge:

Q What is your name? A Allen Lynch.

Q How old are you? A 31 about.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A Might say all my life.

Q Do you know the applicant there, Joe Lynch? A Yes sir.

Q How long have you known him? A We were born and raised on the same place.

Q You have known him practically all your life then? A Yes sir.

Q Did you know him during the war? A Yes sir.

Q Where did you see him during the war? A We were soldiers together and were both in the same regiment.

Q Where were you discharged after the war? A In '65.

Q Where were you discharged? A At Leavenworth.

Q When did you see him after that? A We came to Neosho Falls together in '85 and I left him there in that winter, re'kon about Christmas and come back here to the Nation.

Q Are Neosho Falls in Missouri? A No sir in Kansas.

Q Where did you locate here in the Nation on coming from Neosho Falls? A On the east side of Grandriver.

Q How long did you stay at that place? A Until some time in March.

Q Of what year? A '86.

Q On the east side of Grand river? A Yes sir.

Q Then where did you go? A Moved right down here to the mouth of this creek here.

Q Cabin creek? A No sir, where Bull creek runs into Cabin.

Q How long did you stay there? A Raised a crop there, a crop of corn, and staid there until June or July.

Q You say you staid on the east side of Grand river until March of 1886? A That was when I first moved over here.

Q You spoke of going first, when you got back, to a place on the east side of Grand river, when did you get there? A The first day of February '86.

Q How long did you stay there? A 7 or 8 days.

Q And then you come over here to Bull Creek, is that right? A Yes sir.

Q How long did you stay at this place at the mouth of the Creek?

A We staid there until along in June or July.

Q Of what year? A '86.

Q Then what did you do? A We moved down to what was called the old Ark Simmons place.

Q Where is that? A About a mile from the old Lewis Hall place.

Q How long did you stay there? A We staid there until some time maybe in October, can't tell exactly.

Q Was it of the same year? A Yes sir.

Q Then where did you go? A Went to the Six Mile Bottom on Mo-Grarie's place.

Q How long did you stay there? A ~~XXXXXXXXXXXX~~ I don't know exactly - George Clark bought the place and we moved off.

Q Was that the same year? A Yes sir.

Q Where did you go to then after you left the place George Clark bought? A Went to the Dr. Thompson place.

Q Still in '86? A Yes sir.

Q How long did you stay there? A Until some time along in '87, cant tell exactly.

Q Was it in the summer or fall? A I left there in the summer of '87.

Q You say that you left Joe Lynch up on Neosho Falls? A Yes sir.

Q When did you see him again after leaving him up there? A I saw him while I was living on this Six Mile Bottom, he come down there to see his brother in law Simon, and to locate him a place.

Q Six Mile Bottom of what creek or river? A Grand river.

Q On which side of the river? A The west side.

Q Did he pick himself out a place there? A Yes sir.

Q Is that the place he is living on now? A Yes sir.

By A. S. Holton:

Q Do you know Mr. Lynch, when Joe Lynch come to this place that you speak of to seek him out a location, do you know when it was?

A It was in the fall of '86.

Q Well you have known him to have lived in the Cherokee Nation continuously since he first moved to that place have you not?

A He has never moved off of it since he came there.

By W. H. Hastings:

Q When did he move here with his family? A He got here with his family in '87.

- Q Was it in the fall? A In the spring or summer.
- Q How long did he stay when he first came? A Week or ten days.
- Q Then did he go back? A Yes sir.
- Q He had no name then did he - nobody had any at that time did they? A No sir, not much.
- Q Was he a horse-back or feet the first time you saw him? A He was horse back when he came there to look up a claim.
- Q How many children did he have when he came in the following spring or summer with his family? A I cant remember just exactly, must have had three, four, five or six, I dont know just how many.
- Q Did they come in wagons that time? A Yes sir.
- Q When he did come back with his family, where did he move to?
- A Right on the place where he lives now.
- Q He never went back to the Joe Lynch place? A No sir, right where he lives now.
- Q Is that in Delaware district? A Yes sir, right close to Guss's.
- Q How far is that from the old Joe Lynch place where he used to live before the war? A 4 or 5 miles.
- Q In the same neighborhood though? A Yes sir.
- By A. S. McKee:
- Q Are you acquainted with the children of Joe Lynch? A Well, yes sir, I cant give the names of them all, I cant count them all, he cant ever count them; I know them but I dont know their ages and cant give all their names. He cant even do that himself.
- Q Have you any knowledge of your own how old the oldest one of his children is? A No sir, I cant tell.
- Q Are you acquainted with the oldest one? A I know them all but I cant tell nothing about their ages, I lives there in two miles of them but I cant tell nothing about their ages.
- Q Were they all born here in the territory? A I think he brought two of them with him from Kansas when he come here first.
- Q When he moved here with his family you mean? A Yes sir.
- Q Where the others all born here? A I think they was.
- Q You dont know which ones were born in Kansas? A No sir, I think though that Hester - a girl - and the other one - I dont know - I dont know of any others was born there or not; The others though was all born right there where he lives. I dont know how many he brought with him from Kansas.
- Q Is the one that you referred to by name the oldest one? A Yes, sir, that I know of.
- Q You dont know of they have any older ones or not? A No sir I dont know.
- By the Commission:
- Q This place that you say that you saw Joe Lynch the first time when he came here to locate him a place, when he came here first on horse-back, was that in what you call Six Mile Bottom? A No sir, it was on the prairie, right on top of the prairie.
- Q You were living then yourself on the Six Mile Bottom? A Yes sir I was about four miles below there.
- Q And when you next saw him it was in the following summer? A Yes sir.
- Q When he was moving his family? A Yes sir.
- Q Did he move them all to this place near Six Mile Bottom? A Yes sir.
- Q How far from where you lived was this place? A Must have been 4 or 5 miles or maybe six miles.
- Q Were you at his place when he got there? A No sir, he was there when I saw him, he was right there.
- Q How long had he been there when you first saw him and his family?
- A I cant tell you that.
- Q But that is the first time you saw him after you saw him on horse back by himself the year before? A Yes sir.
- Q You dont know if he had just come or not? A No sir I never asked him.
- Q Do you remember when he married in Kansas, or were you present

at the time? A No sir I wasn't there; he married in '66 or '66, because we both belonged to the same regiment and were mustered out together and I left him there and during the time I left him there he married.

ANDERSON LYNCH, called and sworn by Commissioner C. R. Brackinridge, as a witness, testified as follows on the part of the applicant: (Examined by Com'r Brackinridge).

Q What is your name? A Anderson Lynch.

Q How old are you? A I am about 64.

Q What is your postoffice? A Vinita.

Q How long have you lived in the Cherokee Nation? A I was born and raised here.

By A. S. McRea.

Q Are you acquainted with the applicant, Joe Lynch? A Yes sir.

Q How long have you known him? A All my life.

Q Did you see him here in '66? A Yes sir.

Q What time of the year was it that you saw him? A It was in the fall of '66.

Q Where was it that you saw him? A It was right there on the river, he was making a claim where he is now living.

Q Did you know him before the war? A Yes sir.

Q Who did he belong to? A To Joe Lynch, the same man I did.

Q Are you acquainted with his wife? A Yes sir, a little, I have seen her in Kansas.

Q When did you see her in Kansas? A In '65, when I first got acquainted with her.

Q Were they married then? A Yes sir.

Q Do you know when Joe Lynch went back to Kansas for his family after he had first been here to locate him a claim? A Yes sir it was in the winter, and I think that he went up here to Osage Mission and had to stay a while and never got back here until in the winter of '67.

Q And did he then bring his family and locate where he is living now? A Yes sir.

Q Did they have any children born in Kansas? A They had one that I remember of, a girl.

Q What is its name? A Hester.

Q Was she born in Kansas? A Yes sir, I know she was.

Q How old was she when she came here from Kansas? A I don't know exactly.

Q Of your own knowledge, has Joe Lynch lived in the Cherokee Nation continuously ever since he came here in '66? A Yes sir.

By W. W. Hastings:

Q Have you ever been tried for anything? A Oh yes I has been tried.

Q What for? A I has been tried for murder.

Q What was done with you? A I was acquitted.

Q Ever been tried for anything else? A No sir.

Q You knew Joe Lynch before the war did you? A Yes sir, we was raised together.

Q Where did you live at the time that you say Joe came back here in the fall of '66? A On Lynch's Prairie, and heard of him being over there and came over to see him.

Q Is Lon Lynch your young Master? A Yes sir.

Q And you say that Joe brought back his family from Kansas to the Cherokee Nation in the fall or winter of '67? A Yes sir, it was in cold weather.

Q He had one child then that you remember? A Yes sir, he didn't have any children with him the first time he came, he came the first time on horse-back by himself.

Q I mean when he brought his family - his wife? A Yes sir.

By A. C. McRea:

Q You are a Cherokee citizen are you? A Yes sir.

APPLICANT, re-called and examined by the Commission:

Q How did you get at the ages of the children that you handed in on this slip of paper? A I got a man to put them down.

Q Who told him the ages to put down? A I did, I just had to guess at it; I didn't know their ages exactly and had to guess at it, and he put them down as I said I thought they was.

By W. V. Hastings:

Q Is your wife living? A Yes sir.

Q Where was this list made out? A It was made out over at home.

Q Was your wife present when it was made out? A Yes sir she was.

Q You talked with her about their ages didn't you? A No she can't count none; I talked with the man that put it down; of course she was standing there listening to me.

Q You are sometimes known by a nick-name are you not; as Joe Buzzard or Joe Lynch? A Yes sir.

C. L. LYNCH, called and sworn by Commissioner C. R. Breckinridge, testified as follows on behalf of the Cherokee Nation:

(Ex-ruined by Com'r Breckinridge)

Q What is your name? A C. L. Lynch.

Q What is your age? A 60.

Q What is your postoffice? A Stillwell, I. T.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life.

Q Do you know the applicant here, Joe Lynch? A Yes sir.

Q Did he belong to your father before the war? A Yes sir.

Q And at the time of the war? A Yes sir to the war to my father's estate.

Q Do you know what became of this man during the war? A He went to Kansas.

Q Did his wife Sophia belong to your father? A No sir, I am not acquainted with his family.

Q Do you know when this man came back to the Cherokee Nation after the war? A Not exactly.

Q What do you know of his coming back? A Well I came back myself in the winter of '66 and '67, in January or February.

Q And when did you first see this man after the war? A The first time that I saw him since the war was to-day a week ago.

Q Just a week ago? A I never saw him from then until last Tuesday a week ago.

Q Do you know where he lives near Six Mile Bottom? A Yes sir I have been to his house three or four years back, but he was not at home, I have not seen him since '82 until last week.

Q Then you have no knowledge of your own as to when he came back from Kansas to the Cherokee Nation? A No sir, I came back myself in '67 and stopped in Flint district and was going backwards and forwards from Flint to my old place in that year of '67, and I found some of the negroes there, but Joe Lynch had not come in yet in '67.

Q Did you pass by where he is living now in your wanderings back and forth? A No sir he was not here then.

Q I mean did you pass by that locality where he now lives? A Yes sir I was well acquainted with the country round there.

Q Was you by there in your rounds in 1867? A Yes sir I was all around there and there was no house there then.

Q In 1867 did you go by the exact spot where this man now lives?

A I don't know that I did go by the exact spot, but I was round through the country there, backwards and forward.

Q What time in 1867 were you there? A I got back in February of '67.

Q Was you right there where this man now lives in February of '67?

A I don't know that I was right where he lives.

Q What time in '67 were you in that neighborhood? A I went around through there frequently.

Q Were you there in the fall or summer of '67? A I was right across

the river then, from the place where this man says he lives.
Q Did you go through that neighborhood in the summer or fall of '67? A I don't remember if I did go through the exact place that this man lives at but I was on the other side of the river, just opposite two or three miles from there.

By W. V. Hastings:

Q You passed by his place about three years ago you say? A Yes sir about 3 or 4 years ago, I went to his house but I did not see him as he was not at home.

Q About how far is that place from your old place? A Well I guess it is about 3 or 4 miles.

Q On which side of the river was your old place? A On the south side.

Q Of Grand river? A Yes sir.

Q When did your father die? A In 1861.

Q About the time the war came up? A Yes sir.

Q Did your father leave any property in that neighborhood in the way of farms and improvements? A Yes sir, left all his property there.

Q What were you doing up there in '67 after you returned to the Cherokee Nation? A I came back and found our old place sold under the Confiscation act and another man living on it, and I was up around there to look after it and the property my father had left.

Q How much of your time did you spend in that neighborhood in '67?

A Well I lived some of the time in Cooweescoowas district on Grand river, I had some folks living there, and then I lived in Flint off and on during '67.

Q You say you never saw this man Joe Lynch in that neighborhood any time during that year? A No sir.

By the Commission:

Q How far is Joe Lynch's home from your father's old home? A 3 or 6 miles.

Q Have you lived at your father's old home ever since the war?

A No sir.

By A. S. McRea:

Q When you came back for your interests in '67, you were only looking after your own interests and nothing else were you not? A Yes sir I was just looking after my property there.

Q You don't know whether or not Joe Lynch was at the place that he states he was or not at that time? A He was not there.

Q You are positive that he was not there? A Yes sir.

Q I understood you to say that you never went to the exact spot where he now lives until about three years ago? A There was no place there at all at that time.

Q That was a very isolated country up around there then was it not?

A Yes sir it was not settled up much then, not as many there as there are now by any means.

Q It is possible that he could have been around there when you first come there and you not have seen him, is it not? A Oh yes it is possible.

Q Then he might have been there and you not have run across him?

A He might.

By the Commission:

Q Did you see any of the rest of your father's slaves around there at that time? A Yes sir.

Q Did you visit them? A Yes sir, I saw them all that was there, at the old place.

Q Did you make any inquiry as to where the rest of them were?

A I inquired for Joe and the balance of them.

Q Did you dispose of that property that year or the next? A No sir I was the only one here at the time.

Q When did you get rid of it? A I cannot say positively, my brother and Col. Bell were administrators and they sold it when they got back.

JOSEPH L. THOMPSON, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the Cherokee Nation.
(Examined by Commissioner Breckinridge)

Q What is your name? A Joseph L. Thompson.
Q How old are you? A 62.
Q What is your postoffice? A Vinita.
Q How long have you lived in the Cherokee Nation? A All my life, except one year.

By W. W. Hastings:

Q When did you come back to the Cherokee Nation after the war? A I got back to Cabin Creek in January, 1868.
Q Do you know the applicant, Joe Lynch? A Yes sir.
Q Do you know where he lives now? A Yes sir.
Q How far did you live from him then? A When I first settled there it was a mile and a half and now it is two miles.
Q Was he living there when you came back to the Cherokee Nation in '68? A No sir.
Q When did you say you returned? A January '68.
Q And he was not living there at that time? A No sir.
Q Did he move there since then? A Yes sir.
Q You were living then about a mile and a half from where he lives now? A Yes sir on what was then known as the Ahsheene place.

By A. S. McRea:

Q How long have you known Joe Lynch? A I have known him nearly all my life, he belonged to my uncle.
Q Do you know where he went to during the war? A No sir, he came from Kansas after the war, but I don't know where he was all during the war, Kansas though I suppose.
Q Did he leave here during the war? A Yes sir.
Q When did he leave? A I don't know.
Q When did he return to the Cherokee Nation after the war? A To the best of my knowledge he returned in '68.
Q Where was the first place that you saw him in '68? A Where he now lives.
Q How long had he been there when you first saw him? A Only a few days.
Q Has he been living there continuously since '68? A Yes sir, I have been living there myself ever since and I have never known of him moving away.
Q Can you state positively of your own knowledge whether or not he was here in the Cherokee Nation before '68? A He was not living where he now does before that.
Q How do you know that he was not living where he is now before that time? A Well I was over the prairie frequently and did not see him until about that time.
Q What kind of a country was it around there? A How do you mean?
Q Was it isolated and grown up with brush and timber or were there lots of settlements around there? A Well there were only a few people living around in that part of the country then.
Q Was it woods? A No sir he lived out on the edge of the prairie like
Q How far did you say you were living from where he does at the time you first saw him? A About a mile and a half.
Q Then you say you moved to another place? A Yes sir it was about two miles from his place.
Q Do you still live there at that place? A Yes sir.
Q Does he still live at the same place that you first saw him at?
A Yes sir.
Q How long have you been living at the place you now live?
A 25 years or more, yes it has been longer than that.

WALTER A. WEST, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the Cherokee Nation.
(Examined by Commissioner Breckinridge)

Q What is your name? A Walter A. West.

Q How old are you? A 60.

Q What is your postoffice? A Spavinaw.

Q How long have you lived in the Cherokee Nation? A All my life.

By W. E. Hastings:

Q Mr. West, where did you live the first few years after the war? A Over here on the Military Road in Delaware district.

Q Do you know Joe Lynch, the applicant here? A Yes sir.

Q Do you know where he lives? A Yes sir.

Q How far did you live from him at any time? A Well when he first came here after the war he lived two miles from me.

Q Where did he settle there? A He came there in the spring of '68 to the best of my recollection.

Q Are you positive that he was not there before the year '68? A

No he was not there.

Q How far did you live from him? A Two miles.

Q How long had you lived there? A I moved there in the latter part of '66; during the first part of '66 I lived in close to Neosho and then I lived near Fort Scott Kansas and then I came down here and made a place and lived on it until in '62 and sold it to Nip and then moved to where I am now living.

Q Then in '67 and '68 you were living near the old Military road and near where this man lives? A Yes sir up to November '69.

Q Where did this man first come to after the war, to the place where he now lives? A I saw him on the old military road and he said that he had come from Kansas, and he settled near there and made a place; I could see it from my house, it was just in sight. It was close to what is now Nips place.

Q And you say that was in the spring of '68? A Yes sir that was in the spring of '68.

Q How long was it from the time you saw him on the old military road until he settled on this place? A That same spring that I saw him on the military road coming from Kansas.

By A. S. Nelson:

Q Mr. West, how long have you known Joe Lynch? A I knew him before the war when he was a little boy called Buzzard.

Q Where did he go to during the war? A I don't know.

Q Did he leave the Nation during the war? A I don't know except that he told me that he went to Kansas.

Q When did he leave the Cherokee Nation to go to Kansas if you know? A I don't know.

Q When did he return? A In '68.

Q How do you know that he returned in '68? A He came by my place and said he had come from Kansas.

Q How was he traveling? A In wagons of course, there was no railroads through here then.

Q Who was with him when you first saw him? A He was supposed to have his family with him.

Q What family? A Wife and child is all that I saw.

Q Where did he go to then? A Cross the river where he said he was going over among his acquaintances and relations and then he came back on this said and made him a place.

Q When did he locate his present place, where he now lives? A In the same year, '68.

Q Can't you possibly be mistaken? A I can possibly be mistaken, but that is my judgment.

Q How long have you lived in the neighborhood where you are now living? A Ever since November 1869.

Q Do you know anything about the character and nature of that country before '68? A Yes sir.

Q What was the condition of it, open land or wood? Was it well settled up with settlements? A It was not as thickly settled as it is now, there was some thick woods down in the bottom

Q Was it a wild sort of country? A Well I guess you might call it sort of wild, there was lots of game in around there.

Q Are you positive that he was not located in around there before '88? A I did not see him until that time in '88.

Q Is it not possible that you might not have seen him around there and him yet be living there? A Well I don't hardly think it is for I was around through there pretty much hunting deer and would have run across him.

Q Is it possible that if Joe Lynch had been where that you would not have seen him there at that time on account of the isolated sort of country it was? A No sir not if I had had a Winchester with me it is not likely that he could have got away for I was pretty good at killing deer then days.

Q It is not possible that he could have come back to the Cherokee Nation from Kansas before '88 and you not have seen him? A Yes it is, but the first time that I saw him was there on the old Military road coming by my place from Kansas, as he said and that was in the spring of '88. He could not have come by there and settled where he now lives without my having seen him.

Q You don't know of your own knowledge when he did come back to the Nation? A I know that he did not come to where he now lives until in '88.

By the Commission:

Q You are not living in the same neighborhood now that you were when Joe Lynch came back? A No sir, I live six miles from him now and when he came back I lived two miles from him.

Q I understood you to say that when he came back the first time and settled that you were living two miles from where he settled?

A Yes sir.

Q That was within two miles of there he settled then and also where he now lives? A Yes sir.

Q When did you begin living on that place yourself -- the one you were living on when you first saw the applicant here? A In the latter part of '88.

Q And you lived there I believe you stated, until the latter part of '89? A Yes sir until in November '89.

By A. S. McRea:

Q Is it not true that you never came to this particular place where you are living now until in '88? A I went there in November 1889.

Q I was speaking of the place where you lived before coming to the place you now live at? A I went there in '88 and made it my home and raised crops there until I sold it to Hip and moved away in '89.

JOE LYNCH, the applicant, recalled and examined by A. S. McRea:

Q Are you acquainted with Mr. Thompson who has just testified for the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life, ever since I was big enough.

Q Did you see him in '86 when you came to the Territory where you are now living? A No sir, I came by myself on horseback that time and never seed him.

Q When did you first see these witnesses? A Must have been in '87 that I seed him.

Q Where was it that you saw Mr. Thompson and Mr. West in '87?

A I saw Mr. West across the river.

Q And not at the present place where you are now living? A No sir when I come down there I never seed nobody.

Q When you brought your wife and family in a wagon did you see Mr. West as he swears you did? A No sir I never.

Q Then he did not see your family and you? A No sir.

Q If you had seen him you would have had some recollection of it would you not? A Yes sir.

Q How long has Mr. West lived in the neighborhood where he now lives - did he live two miles from you when you first settled there?

A No sir he never lived there when I came there, he come and got a place close by there and lived there after that.

Q When was that? A In '87, when I was living there.

Q What time of the year, in January or in December or in the summer or when? A Long in March of '87.

Q Did you know Mr. West before the war? A Yes sir.

Q If you had met him in '68 you would have some recollection of it would you not? A Yes sir course I would.

Q Is the statement of Mr. West that he saw you passing his house on the old Military road with your family in a wagon in the spring of '68 true? A No sir that is not true.

By the Cherokee Nation, W. W. Hastings:

Q Mr. West was living within a short distance of you when you located there? A He was on a place there three or so miles from me, he was on the old Military road and I was near Grand river.

By A. S. McRea:

Q When did your permanent residence begin down there? A It commenced long in the winter when I commenced making my field.

Q In the winter of '66? A Yes sir.

By Com'r Breckinridge: The applicant applies for the enrollment of himself, his wife and six children; it is developed in the course of the inquiry that one of the children for whom he applies is married and his application is reduced to five children. It seems that the applicant was a slave in the Cherokee Nation and of a Cherokee citizen prior to, and at the breaking out of the war between the United States and the Confederacy. He appears to have enlisted in the United States army and to have gone to the state of Kansas, from which state he returned after the war. The applicant is not identified on the roll of 1880 or upon that of 1892, or upon the Hicks-Clifton roll, he is identified on the Wallace roll. He married in the state of Kansas, and in his first testimony states that he there lived until after the birth of his first child; that his wife had gone to the State of Kansas from the Cherokee Nation during the war, that she remained there four years prior to their marriage and that they returned to the Cherokee Nation one year after their marriage. The testimony relating to the time when his wife went to the State of Kansas is not present at this moment, it having been taken by another stenographer, but that can be inquired into later. The applicant subsequently denied that any of his children were born in the state of Kansas, but it is averred by other witnesses, including one of his own, that when he returned to the Cherokee Nation he was accompanied by one child, and one of the witnesses affirms that he was accompanied by more than one child. Witnesses who lived in the neighborhood in which the applicant located, according to his own testimony, immediately after his return, and at which spot he has continued to live ever since, affirm that he came there in the year 1866 with his family. The applicant affirms that he came there first on horseback in the fall of '66 and moved his family to this locality prior to the spring of '67. The testimony is very voluminous, but is referred to for fuller information in regard to its character. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card and the final decision of the Commission will be made known to him at his postoffice address. The applicant guesses his age at

60 years and that of his wife at 50 years. She appears to partake of all the rights and status enjoyed by himself and she will now be listed for enrollment as a Cherokee Freedman on a doubtful card; she being identified like the applicant on the Vailled roll, but not upon any other roll. The five children applied for, and who are said to be minors, and ~~xxxx~~ ~~xxxx~~ ~~xxxx~~ whose applications are receive at this time, are respectively Eliza, Cynthia Jane, Randolph, Ruth and Jackson; these children range in age from 11 to 18 years, they are all said to be living now, there is no dispute as to their identity or of their being living at this time; they are not identified on any roll, but they will be listed for enrollment with their father and mother as Cherokee Freedmen upon a doubtful card. The final decision of the Commission in regard to all of these applicants will be made known to them through their father at his postoffice address.

Chas. Von Weise, being sworn at this that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the continuation of the above named cause from one o'clock P.M., May 21st, 1901, at Vinita, I.T., and that the above and foregoing is a full true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise:

Subscribed and sworn to before me this the 28th of May, 1901, at Chelsea, I.T.

Signed, G. R. Beckinridge,
Commissioner.

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Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing and that the same is a true and correct copy from the original.

Bruce G. Jones

Sworn to and subscribed before me this the 24th of August, 1901.



Commissioner.

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Department of the Interior.
Commission to the Five Civilized Tribes.
Chelsen, I. T., May 29, 1901.

In the matter of the application of Rachel Downing for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner C.R. Breckinridge, testified as follows:

A. S. McRea, Attorney for Applicant.

- Q Give me your full name. A Rachel Downing.
Q How old are you? A 21.
Q What is your postoffice? A Chelsen.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A No sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Give me the name of your father. A Joe Lynch.
Q He is alive, is he? A Yes sir.
Q Give me the name of your mother. A Sophia Lynch.
Q She is alive, is she? A Yes sir.
Q When were you married? A In 1900.
Q To whom were you married? A To Walter Downing.
Q He is not a Cherokee Freedman of his own right, is he? A Yes sir.
Q He has enrolled, has he? A Yes sir.
Q Have you anyone who knows that you and he are married and living together as husband and wife? A Yes sir.

Walter Downing being sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your name. A Walter Downing.
Q How old are you? A 21 years old.
Q What is your postoffice? A Chelsen.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Is this your wife here, this applicant? A Yes sir.
Q When were you and she married? A In 1900.
Q You have already applied for your enrollment, have you? A Yes sir.

The 1880 authenticated roll, the 1896 census roll and the Kerns Clifton Roll examined and the name of the applicant is not found thereon.

The Wallace Roll examined and the name of the applicant is found on page 123, No. 2594, Rachel Lynch, Delaware Dist.

The applicant states that she has lived in the Cherokee Nation all her life; she is 21 years of age; she is identified upon the Wallace Roll, but on no other. Her change of name arising from marriage in 1900 is established by satisfactory testimony. She can possess no right at this time by marriage, and therefore her only right is that which she possesses of herself. She is a child of Joseph and Sophia Lynch, through whom her right must be derived. Their case is set forth in full, Cherokee Freedman Case D-376, and it is ordered that a set of the testimony taken in that case be filed with this case. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card to await the further consideration of her case, and when the Commission's final decision of the Commission is rendered, it will be made known to her at her postoffice address.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 30th day of May, 1901.

C. R. Breckinridge
Commissioner.

File with Cherokee Freedman. D-450, Rachel Downing.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1901.

In the matter of the application of Joe Lynch et al. for enrollment as Cherokee Freedmen.

Testimony introduced by Cherokee Nation.

Answer the questions:

A. S. McRea, attorney for the applicants;
J. S. Davenport, of counsel for Cherokee Nation.

REES GRAVENS, being duly sworn and examined by Commissioner Brackinridge, testified as follows:

Q What is your name? A Ross Cravens.

Q How old are you? A I am about 40.

Q What is your postoffice? A Vinita.

A. S. McRea: In view of the fact that the Cherokee Nation has already offered rebuttal testimony in the Joe Lynch matter, I ask that they state in advance what material fact they wish to bring out, whether it is on new matter or what. I certainly object to any testimony unless it is upon some new matter that they wish to bring out or develop.

Mr. Davenport: We will state, in introducing testimony, unless the record shows that we have closed upon the questions of disproving allegations of the applicant which he has attempted to prove, that is, of the ownership, and his return to the Cherokee Nation within the time provided by the treaty, that we will still introduce testimony. It may be possible the record shows we closed; of course if it does I agree with him, but if it does not show that fact, we are still on our branch of it.

Commissioner: Can the attorney for the applicant cite anything in the record in the nature of an agreement or understanding that the case has been closed.

A. S. McRea: That was my understanding.

Commissioner: Can you cite anything in the record to that effect?

A. S. McRea. Except to this extent; the son, in the person of Mr. Lon Lynch, of the owner of the applicant, testified as to the ownership, and he also gave testimony as to the return, and naturally the presumption would be that the testimony on the part of the Cherokee Nation was closed.

Commissioner: What do you propose to prove by these witnesses?

Mr. Davenport: That he did not qualify within the time provided by the treaty, and that he has not resided here continuously since then.

Commissioner: The Commission is compelled to pursue a very liberal course in regard to these cases, though it is aware of there being in some respects very trying to counsel on both sides, and it is also very trying to the Commission. The law under which the Commission operates seems to require, for a practical discharge of the obligations imposed, rather more latitude than is usually allowed, and the objection of counsel for the applicant is noted in the record. At the same time, however, in this case the testimony will be taken into consideration, in connection with the objection, by the full Commission. The proceedings and requirements of the Department are very liberal towards applicants; at the same time they regard that the record is in some instances being unnecessarily salaried. You can proceed with the witness.

Mr. Davenport: How long have you lived in the Cherokee Nation?

A Oh I have lived in it off and on ever since the close of the war.

Q Did you ever live in Kansas? A Yes, I lived in Kansas.

Q Liv' in Iola, Kansas? A Lived in Iola about 12 or 13 years.

Q About what years did you live in Iola? A I lived there in '63 or '4, '8, along in there, different years, I was in and out, that was my home when I was around in there; I lived in different parts of Kansas.

Q Do you know the applicant, Joe Lynch, in this case? A Yes, I have seen him.

Q Do you know where he lives now? A Down here on Grand River not far from Island Ford.

Q Did he ever go by any other name, if you know? A Some calls him Joe Buzzard and some Joe Lynch.

Q When did you first get acquainted with the applicant? A When he lived in Iola, Kansas.

Q When was that? A That was along, oh it must have been 35 years since I first knew him, or close onto that.

Q When was the last time you knew him living in Iola, Kansas?

A I can't tell you the exact time when I did see him because --

Q Where did you first get acquainted with him? A In Iola, Kansas.

Q When was that with reference to the close of the war? A Not long after the close of the war.

Q Did he have a family? A Yes, he had a wife, I don't remember now how many children he had.

Q What was his wife's name? A Some calls her Bob and some calls her Sophia, she answers to either one of them names.

Q Was his family living at Iola when you first got acquainted with him? A Yes, sir.

Q How long did they live there? A Oh, they lived there seven or eight years or more, he used to work for Dan Harvelly cutting wood, and the Davis boys.

Q You got acquainted with him in Iola, then, after just after the war? A Yes.

Q And he lived there to the best of your knowledge about how many years? A He must have been there eight or nine years, somewhere along there, six or seven, I never kept no count of it before he left there.

Q Do you know anything about his children, did he have any? A I have seen his children, but I never took no particular observation of them; I seen them all.

Q Did his family live anywhere close to you? A Right close, his wife used to stay in the house with my wife.

Q Where was he? A He was working, chopping saw-logs and working around down there.

A. S. McRea: What is your occupation? A All 'round man, no particular work, any line there is a dollar or five cents in, any man got a job of work, don't follow any one certain thing.

Q How long after the war was it that you first became acquainted with the applicant, Joe Lynch? A I don't know the exact time, but I know I met him in town there for a number of years, right around that town, I don't know when he left.

Q You don't know at regards -- you didn't know him in the year 1866?

A I wouldn't say for certain, I expect I did but I will not say for certain.

Q Do you know anything about his ownership? A No, sir, don't know that.

Q His going out of the Cherokee Nation during the war, you know anything about that? A I know he came up there to Kansas.

Q When did he remove there? A I don't know exactly when he came, he came with old Uncle Moss Grubbs and Jonas Darter and them.

Q When was that? A That was right after the war, or time of the war, close onto that, right along there near the time they raided out or here.

Q Well, when did he return? A I don't know when he returned.

Q How long before the war was that? A Before the war, it wasn't before at all.

Q It was after the war? A Yes, sir, he wasn't up there before the war.

Q You don't know where he went to before the war? A No, sir.

Q How long did you live in Kansas? A I have been in and out there ever since the close of the war, I came to Iola, up here to Chetopa, Kansas, when the first house was ever built.

Q I will ask you if you are a citizen of the Cherokee Nation?

A I am a married man here, I married into citizenship here.

Q Just answer my question, yes or no? A I have never made no claim, no application for any claim.

Q And you have no particular calling for a living? A I do anything that I can make an honest living at.

Q Mention some of the things you do? A Haul, clean up, do anything, cut wood, anything in general.

Q How long do you work at any one particular work? A Just as long as that job is done, then I look for another.

Q What do you realize out of these jobs? A Whatever I can get out of them, and when that is done I am looking for another one.

Q How long have you been married? A I have been married twelve years, a little more.

Q To whom were you married? A I was married to Louisa Ross.

Q And you know Joe Buzzard? A Yes, I have been knowing him right around here for a number of years.

Q How long have you known him right around here? A I have known him in and out I think about 20 years when I first been in and out, I have seen him at different places..

Q Well now how long have you known him in and out in Kansas? A I told you how long, I told you he lived there but I don't know when he left there.

Q What part of that in and out was in Kansas? A I must have knowed him seven or eight years right around Iola there and maybe longer.

Q That was since the war? A Yes, he lived there.

Q Didn't you testify a while ago that you have been knowing him for 35 years? A I did, I expect I have known him longer than that, I didn't say positive, I expect I have knowed him longer than that in my rounds, I didn't stay right around him all the time.

Q 25 years of that time you have known him in the Cherokee Nation?

A I didn't say positive I have known him that long right in one place, but I can say positively I have knowed him right here in the Cherokee Nation for 15 or 20 years.

Q How long did you know your wife before you married? A I knowed her about three or four years.

Q And you been married to her twelve years? A Yes, maybe longer

Q Where did you first meet her? A In Iola, Kansas.

Q You married her in Kansas? A Yes, sir.

Q Then when did you move to the Cherokee Nation with her? A Well when I first come down here with her, to the best of my knowledge, which I can prove by facts, little Ike Martin was a boy about that high.

Q I don't know him, tell about how many years? A That must be close onto 25 or 30 years, longer I expect, little Ike I expect is 25 or 30, I used to know him, I used to come here and hire a horse and buggy and he take me around over the Nation.

Q You knew your wife four years before you married? A I expect I knew her longer than that.

Q Come down to the fact of it? A I haven't got any specified time how long I knowed her.

Q I want to ask you the question? A Well I have done answered that.

Q Now you say you knew your wife four years before you married her?

A I expect I did and maybe longer.

Q Well how much longer? A I didn't say how long.

Q You married her in Kansas? A Yes, sir.

Q Stayed there about 12 years with her? A Yes, sir, I stayed in different parts of Kansas.

Q And came to the Cherokee Nation with her? A Yes, sir.

Q No how long have you lived in the Cherokee Nation with her?

A Right here in this town, I have been permanent in this town, about five years, permanent.

Q With you and your wife? A Yes, sir.

Q You said now that you knew him in all 35 years? A Knew who for 35 years?

Q Your wife, knew her for 35 years? A I am just telling the time and different places I have lived.

Q Didn't you tell you have known your wife altogether 35 years?

A Maybe longer.

Q And yet you knew her four years before you married her?

A I can't give you any positive time about that.

Q Lived with her 12 years in Kansas? A I can't give you any positive time, I lived with her about 12 years, I lived with her 12 years, she has been dead now about nine months, altogether will make about 12 years.

Q You lived with her 12 years in Kansas? A I didn't say I lived with her that long in Kansas, I say I lived, I expect I have lived with her that long.

Q The fact of the matter is you don't know anything about any of it?

A I know anybody I see, if I see you and anybody ask me if I see you I can tell them I see you.

Q Do you swear this Joe Lynch is the same one lived in Kansas, Iola Kansas, 40 years ago? A I didn't say 40, 30 he lived there, and I can prove by dozens of people.

Q How long? A I didn't tell you how long.

Q How long did you say? A I didn't say but I tell you he lived there.

Q How long did he live there? A I told you he lived there about seven or eight years around about the country and when he moved I don't know, it aint no use for him to say he didn't live there.

Q We don't propose to argue the question. A Well you talked like he didn't live there; he lived right there.

Q Now I want to go back with reference to the number of years you lived with your wife? A You needn't go back, I have told you all the reference you will get out of that, I told you that now, you are just losing time, I am not telling you the positive date about how long I lived, but I tell you what I can do, I have the papers down in my trunk will tell the dates, they tell you the dates, they are recorded and you can't dispute them.

Q Now according to your estimate you lived with and known your wife 16 years; is that right? A You can make it as you please, I have give it now according to my best knowledge, I kept no record of it.

Q In other words, you just came here to swear against Lynch? A I don't have it to do, I wouldn't lie for you if you were my daddy.

Q Now didn't you just come here to swear against Joe Lynch? A No, sir I haven't got nothing against the man, not a thing sir, but I don't propose to tell a lie for nobody, a man can't hire me to do that; no, sir: if I am acquainted with a man and a man ask me if I know him --

Q Well how many children did Joe have in Kansas? A Well I know one time me and my wife was down there, and I couldn't count them, I says, Toos, how many children have you got for Lord sakes, and she says, Mr. Gravens, you see them running around here like quails, count them, and I couldn't count them.

Q How many did you count? A I counted eleven or twelve, but I understand that he was the father of 22, I don't know it by the facts,

the last count he had 22 I think what his neighbors said living around there, but I wouldn't say that to be a fact.

Q Now Mr. Cravens, how long have you known Joe Lynch, all told?

A I can't tell you exactly, all told, but you asked me how long did I know him and I knowed him here for twenty years.

Q How long have you known him in the Cherokee Nation? A I been in and out here ever since the close of the war, I tell you I didn't permanently move, I been permanently here in town five years, but I been in and out ever since the close of the war.

Mr. Davenport: Did you have any neighbors up there at Iola, Kansas, do you remember the names of any that knew about Joe being there?

A Yes, there is Dr. Chartson, Pat Harvelly, Bill Davis.

Q Well did Leonard Martin live there about that time? A Yes, sir; George Davis, I could tell a hundred that he worked for.

Mr. Davenport: We have other witnesses in this case that we desire to examine in connection with this witness, but they haven't yet arrived. We don't wish to have additional notice, as the parties will all probably be here, or their representatives.

A. S. McRea: Now your Honor, I want to make an objection, to have all this testimony stricken from the record, by reason of the fact that there has been no notice served upon the attorney for the applicant, nor the applicant, that testimony would be taken in rebuttal on to-day or any other day.

Commissioner: The record shows, by return registered postoffice receipt, that notice was served on Joe Lynch that testimony would be taken on this day at eight o'clock A. M., and the papers are filed in this case.

Mr. Davenport: I wish to apply that in Cherokee Freedman cases D-383, D-384, D-385, D-386, D-387, D-429, D-480, and D-233.

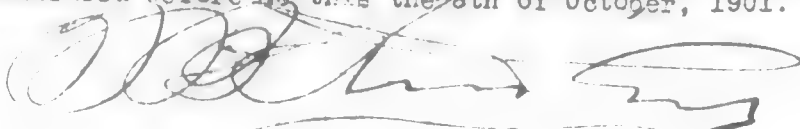
Commissioner: Copies of this testimony will be filed in the cases enumerated by the Cherokee Nation, and also in the case of Joe Lynch et al., Cherokee Freedman D-376.

Note: Copy of testimony also should be filed in case of Robert Foster, D-522, and in D-270, as to children of Wiley Curls and Nancy Curls.

Bruce O. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce O. Jones

Sworn to and subscribed before me this the 8th of October, 1901.



Commissioner.

725.430

FILED
DEC 23 1904
COMMISSION TO FIVE TRIBES.

(C O P Y)

Cherokee F D-376.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I. T., SEPTEMBER 20, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of JOE LYNCH ET AL., as Cherokee freedmen.

APPEARANCES:

Applicant appears in person and by attorney, A. S. McRea.
Cherokee Nation by its representatives, W. V. Hastings
and L. B. Bell.

SIMON LYNCH, being first duly sworn, testified as follows:

BY MR. McREA:

- Q What is your name? A Simon Lynch.
- Q What is your age? A 74.
- Q What is your post office? A Spavinaw.
- Q Are you a recognized citizen of the Cherokee Nation? A I don't know, I guess I am, I hardly know.
- Q Does your name appear upon the authenticated roll of 1880? A I reckon so, I don't know.
- Q You are an applicant for citizenship in the Cherokee Nation, are you not? A Yes sir.
- Q Are you acquainted with Joe Lynch, the applicant who made application for enrollment as a citizen of the Cherokee Nation on May 21, 1901? A Yes sir I know him all his life pretty near.

BY MR. HASTINGS:

Comes now the representatives of the Cherokee Nation and asks permission to interrogate this witness as to his competency to testify.

BY MR. HASTINGS to witness:

- Q Your name is Simon Lynch? A Yes sir.
- Q You live in Saline District? A Yes sir.
- Q You have lived there since the war? A Yes sir ever since.
- Q Are you the same Simon Lynch that was convicted of the larceny of some hogs? A Yes sir, and I was not there when the hogs were stolen.
- Q You were sent to the Cherokee jail at Tahlequah, Indian Territory? A Yes sir.

BY MR. McREA:

Comes now the attorney for the applicant and objects to the

motive of examination relative to the competency of the witness for the reason that the witness having been convicted of some crime committed in the Cherokee Nation under the Tribal Government is no test of witnesses competency to give any testimony in cases of this character, in view of the fact that under the laws of Congress enacted and put in force in the Indian Territory, the witness herein is now declared under and by virtue of said laws a United States citizen clothed with all the rights and privileges of other citizens of the United States.

BY THE COMMISSION:

Objection noted.

BY MR. HASTINGS:

Q You were convicted of stealing hogs from Charles Thompson, who was afterwards Chief of the Cherokee Nation? A That is what it was said.

Q That was the Cherokee penitentiary at that time at Tahlequah?

A I don't know what it was.

BY MR. McREA:

Q How long have you known Joe Lynch? A Ever since he was a little boy.

Q Was he a slave of a Cherokee citizen of Cherokee blood? A Yes sir.

Q Do you know whether or not of your own knowledge that Joe Lynch went out of the Cherokee Nation during the war of the rebellion?

A Yes sir.

Q Do you know to where he went? A No sir I don't know.

Q Do you know when he returned back to the Cherokee Nation? A Yes sir.

Q State when you first saw him in the Cherokee Nation after the war? A In the fall of '66.

Q At what place in the Cherokee Nation did you see him? A In the six mile bottom there at my house.

Q You were then living in the Cherokee Nation? A Yes sir.

Q Did you have any conversation with him? A Yes sir stayed all night with me.

Q Did he state to you at that time for what purpose he returned to the Cherokee Nation? A Coming to look out a home.

Q How long did he remain? A About three days.

Q Do you know where he went after that? A Said he was going back to Kansas.

Q When was the next time you saw him in the Cherokee Nation?

A About the first of February, he moved down.

Q Of the next year? A Yes sir.

Q Of 1867 was it? A Yes sir.

Q Did he bring his family out that time? A Yes sir.

Q You have known him to reside continuously in the Cherokee Nation ever since? A Never anywhere else that I know of.

Q How many persons did his family consist of at the time he returned in February, 1867? A One besides him and his wife.

BY MR. HASTINGS:

Q Where do you live now? A I live right there adjoining places to my old bosses' place in Saline District.

Q Were you living there at the time Joe Lynch came to your house as you have stated the first time? A No sir.

Q Where were you living at that time? A In six mile bottom on a place of George Clark's.

Q Then Joe never moved his family down here in 1866? A No sir.

- Q And if any of these witnesses testify to that effect they testify to what is not true? A I don't know what they testify. He didn't move until I moved there in Saline District to my house.
- Q When did you move to your house? A He moved to my house.
- Q When did you move to your house? A In 1867.
- Q What time in 1867? A February first.
- Q Of 1867? A Yes sir.
- Q How long had you been over there before he come back? A I had been there about two months.
- Q Then it was about two months after you moved over to your house before Joe Lynch brought his family? A Yes sir.
- Q And you moved over there about the first of February, 1867?
- A Yes sir.
- Q Joe's first wife was related to you wasn't she? A He never had but one.
- Q Was that wife related to Joe? A Joe's sister.
- Q Why didn't you testify for Joe in this case up at Vinita? A He didn't want me, didn't call on me.
- Q Did you ever testify for him before? A No sir.
- Q You never testified for him before the Kern-Clifton roll? A No.
- Q Nor before the Wallace court? A No sir.
- Q Where did you make a crop in the year 1866? A Up on Cabin Creek.
- Q On which side of Grand River? A On the west side.
- Q When did you move there? A In the summer.
- Q Summer of 1866? A Yes sir.
- Q Then where did you go? A I come down there close to the old Military road at Mrs. Kell's old place.
- Q Then where? A To the six mile bottom where George Clark let me have a place.
- Q What time did you move? A In the fall.
- Q Of 1866? A Yes sir.
- Q What year is this? A I don't know.
- Q What year was it that Wallace made his roll of freedmen? A I don't know, I can't keep no time of anything that way.
- Q What year did Kern-Clifton make a roll? A I don't know.
- Q Don't know any of these years? A No sir.
- Q What kind of a team was Joe driving when he come down to your place? A An old sorrel mare and one bay.
- Q What road did he come in coming to your place? A All roads, he started from Sulphur Springs and come right down over the mountain that is as far as I can tell you he come.
- Q What Sulphur Springs was that? A The Bob Daniels old place.
- Q On which side of the river was Bob Daniels' place? A West side.
- Q Did he come by Watt West's place? A No sir.
- Q How far did Watt West live from the road? A He did live on the side of the road when he come there.
- Q Where did Joe Lynch settle when he first come to your house in '67 with his family? A Right where he is now.
- Q That is the first place he ever settled? A Yes sir.
- Q And he has been living right there ever since? A Yes sir.
- Q How long did he stay at your house before he went and settled this place where he resides now? A He stayed there about two months I guess to the best of my knowledge.
- Q Then he settled this place in the early summer? A No sir.
- Q Or spring? A He sir, it was too late to make a crop.
- Q Then he come down there too late in the spring of '67 to make a crop? A He worked at my place a little.
- Q And went from your place to where he lives now? A Yes sir.
- Q Built him a house? A Yes sir.
- Q Did nobody come with him besides his family? A I don't recollect now.
- Q What is his oldest child's name? A Hester.

- Q And she was with him? A Yes sir.
Q Didn't have any other children at that time? A No sir.
Q You say you don't remember any other colored people coming with him? A No sir it has been so long I don't recollect.
Q You used to have his sister for your wife? A I have got her yet when I am at home.

BY MR. McCREA:

- Q Did you ever vote in the Cherokee Nation? A Yes sir might near every election.
Q Have you voted in the Cherokee Nation since the time you were convicted of this offense of which Mr. Hastings speaks? A Yes sir every time since never voted when I was a slave, voted since.
Q You have enjoyed all the rights and privileges of a Cherokee citizen ever since 1866, have you? A Yes sir.
Q You speak of living on a place that you got from Mr. George Clark in 1866? A Yes sir.
Q He recollects that does he not? A I guess so.
Q How far do you live from that place that you rented from Mr. Clark with reference to the place you live on now? A About two and a half miles.

BY THE COMMISSION:

- Q Where did you go during the war? A Kansas.
Q And when was it you returned to the Cherokee Nation? A February, 1866.
Q That is when you came there, February, 1866? A Yes sir.
Q How long had you been here did you say, until you saw Joe Lynch?
A He come in the fall after I come here, yes sir, horse back.
Q Was it cold weather then? A No sir not right cold, it was in the fall.
Q He came to your place? A Yes sir come to Mr. Park's place where I was living.
Q How long did he remain there Mr. Lynch. A Until spring.
Q I am talking about him? A He stayed there about three days.
Q Just on a visit? A He come down to look out a location.
Q And then where did he go if you know? A He went back to Kansas, said he was.
Q Did you first move from the George Clark place about the first day of February? A Yes sir.
Q And you answered Mr. Hastings that you had been there about two months did you not when you saw Joe Lynch? A When he came back from Kansas I was living at George Clark's place.
Q And the next time where were you living? A Where I live now.
Q How long had you been there when you saw Joe Lynch the second time? A Two or three months.
Q When did you go to where you are living now? A February I moved over there the first of the spring.
Q February, 1867? A Yes sir.
Q That is the story you want to tell the Commission is it? A That is what I have told.
Q I have not misled you have I? A No sir I guess not.
Q You want to tell the Commission that you moved over to where you are living now about the first of February, and you had been living there about two or three months when you saw Joe Lynch and his family? A Yes sir when they moved down.
Q When he came to where you are now living in the spring of 1867 who did he have with him? A His wife.
Q Who else? A His child.
Q Wife and one child? A Yes sir.

- Q That is the child Hester? A Yes sir.
- Q So far as you know Hester and her mother had not been in the Cherokee Nation after they had left during the rebellion until you saw them where you now live? A That is right so far as I know.
- Q How was it that Joe Lynch came down and picked out a place?
- A That is what he said.
- Q Did he make any improvements or locate him a claim so far as you know? A Yes sir right where he lives.
- Q Did he improve it? A Put some logs around it, made a foundation of logs around it.
- Q Did he do that in three days time? A Yes sir I went and helped him.
- Q Was that on the prairie? A Yes sir.
- Q Was there any timber close there? A Yes sir, right south of it.

BY MR. McCREA:

- Q Do you remember that you stated in your examination in chief, when I asked you the question, when was the first time that you saw Joe Lynch in the Cherokee Nation, your answer was in the fall of '66, is that correct? A Yes sir.
- Q Then I asked you when was the next time you saw him, and your answer was about the first of February, 1867?
- Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to the leading questions that are being asked by the Attorney for the applicant.
- Commission: Objected noted.

- Q Did you make that statement? A Yes sir.
- Q When was the first time you saw Joe Lynch in the Cherokee Nation after the war? A Fall of '66.
- Q How long did he remain in the Cherokee Nation at that time?
- A About three days at my place.
- Q Did you have any conversation with him? A I talked with him all the time he stayed there.
- Q What did he say if anything with reference to coming back to establish his citizenship in the Cherokee Nation? A Said he come back home to located out a place.
- Q Did he locate a place at that time? A Yes sir.
- Q Do you know where? A Yes sir.
- Q Is it the present place he lives on? A Yes sir.
- Q When was the next time you saw him in the Cherokee Nation after the war? A In the spring, I don't know just what dates.
- Q Where were you living when he returned to the Cherokee Nation the second time? A Right where I live now.
- Q How long had you been living where you live now before Joe came back? A Not long, just a little while.
- Q Did he bring his family with him at that time? A Yes sir.
- Q You know what month it was that he brought his family to where you now live? A I don't know exactly.
- Q How long did he stay with you at that time? A He stayed until he built him a cabin, there where he lives now.
- Q That was in '67? A Yes sir.

BY MR. HASTINGS:

- Q You say that was about two or three months after you moved there from the George Clark place? A He stayed there two or three months with me.

BY MR. McREA:

Q It was two or three months before he moved to where he lives now?

A Yes sir.

Q And you stated that you hadn't been where you live now very long until he come there? A Yes sir.

BY MR. HASTINGS:

Q You have testified that you moved over to this place from the George Clark place about sometime in February, 1867? A Yes sir.

Q You have testified that you were over there about two or three months when Joe Lynch came back the second time with his family?

A Yes sir, I was.

BY MR. BELL:

Q Was not there no other colored people living around there?

A Crap and Art.

Q Did they come to see Buzzard? A Yes sir they lived at the old bosses place, got it from Len Lynch.

BY MR. HASTINGS:

Q You are positive that this child Hester was born in Kansas, and that they brought it down here with them? A Yes sir.

Q About how old was Hester when they come down? A I don't know.

Q About how old? A I can't tell she was a child.

Q Running around, walking and talking? A Sucking I believe.

Q Was she a year old? A I can't tell how old she was, don't know that.

LEWIS LYNCH, being first duly sworn, testified as follows:

BY MR. McREA:

Q What is your name? A Lewis Lynch.

Q What is your age? A Near about 50.

Q What is your post office address? A Spavinaw.

Q Are you a recognized citizen of the Cherokee Nation? A Claim to be, yes sir.

Q Is your name on the authenticated roll of 1880? A Yes sir.

Q Are you acquainted with Joe Lynch? A Know him by the name of Joe Buzzard, yes sir.

Q He is the same person present and an applicant for citizenship in the Cherokee Nation? A Yes sir.

Q How long have you known him? A All my life.

Q Did he belong to a citizen of Cherokee blood of the Cherokee Nation before the war? A Yes sir.

Q To whom did he belong? A To Joe Lynch.

Q Did he go out of the Cherokee Nation during the war of the rebellion? A Yes sir.

Q Do you know to where he went? A To Kansas.

Q Do you know when he returned back to the Cherokee Nation with reference to the Treaty? A They said it was in 1866, I was quite a boy and didn't keep records of the dates.

Q Did you see him in the Cherokee Nation after the war? A Yes sir.

Q What time after the war? A It was along in the winter.

Q Of what year do you remember? A They say it was '66, I kept no records of the dates at all.

Q Where did you see him in the Cherokee Nation? A At my father's.

Q Who was your father? A Simon Lynch.

- Q The gentleman who has just testified? A Yes sir.
 Q Were you present when Joe Lynch came to your father's house?
 A Yes sir.
 Q How did he come? A Horse back.
 Q How long did he remain at your father's house? A Two or three days not longer.
 Q Did he say anything with reference to coming down for the purpose of establishing his citizenship of the Cherokee Nation at that time? A I didn't hear him at that time.
 Q Where did he go to after he left your father's house at that time? A The old folks said he went back to Kansas.
 Q Did you see him in the Cherokee Nation after that? A Yes sir.
 Q About how long after the first time you saw him? A It was along in the spring the next time.
 Q Of the next year? A Yes sir.
 Q Where did you see him then? A In Saline District.
 Q At what place? A At my father's where we lived, we had moved out of Delaware District into Saline District.
 Q Did he bring any one besides himself at that time? A He brought his family.
 Q How many persons did it consist of at that time? A Two to my best knowledge, they were his wife and daughter.
 Q Was it his present wife? A Yes sir.
 Q Do you know the name of the daughter? A Hester.
 Q Hester who? A Hester Foster now.
 Q Did he at that time begin making preparation for a permanent location in the Cherokee Nation? A Yes sir the last time he come he did.
 Q Where did he make that location? A In Delaware District.
 Q The place where he now lives? A Yes sir.
 Q And that was in the spring you say of '67? A Yes sir to the best of my knowledge, I don't know anything about the dates, but it was the next spring after I saw him first.
 Q Where did he make his home while making preparation for the place? A With my father and mother.
 Q How long did he stay there? A I disremember just how long.
 Q But you do know that he moved from your father's place over to the place where he now lives? A Yes sir.
 Q Have you known him to be continuously in the Cherokee Nation ever since that time? A Yes sir.
 Q You are close neighbors are you not? A About two and a half miles.

BY MR. HASTINGS:

- Q Joe Lynch, the applicant, is an uncle of yours is he not? A Yes sir.
 Q You never took the stand to testify for him before have you?
 A No sir.
 Q You don't know very much about this you saw? A No sir.
 Q You only know the dates they told you they were, that is all you are attempting to testify to? A Yes sir.
 Q You know what date Mr. Wallace made a roll of Cherokee freedmen?
 A No sir.
 Q Do you know when that big freedman payment was made? A Which one
 Q The last one? A No sir, I don't.
 Q You don't know when Kern-Clifton made a roll? A No sir.
 Q What year were you married? A I don't know that.
 Q Are you a married man? A Yes sir.
 Q Got some children? A Yes sir.
 Q What is the date of the birth of the first one, what year? A I don't know.

- Q You don't know no years do you? A No sir not particularly.
- Q You and your father and the attorney for the applicant talked over this case to what you were going to testify? A No sir.
- Q Never mentioned it? A No sir.
- Q Never said anything to Mr. McRea outside? A No sir.
- Q He never talked to you about what you knew about the case? A Yes sir, but not on the outside.
- Q Inside of the room then? A Yes sir, outside is outside, and inside is inside.
- Q He went over it with you and your father? A Yes sir.
- Q And your father told you about what he knew about it in your presence and you testified to the same thing? A No sir, I didn't.
- Q You don't know the year do you? A Which year.
- Q When you first saw Joe Lynch? A No sir, they claim it was in 1866.
- Q They claim it and that is all you know about it isn't it? A Yes sir.
- Q Where was you born? A In the Cherokee Nation.
- Q Where was you living when Joe Lynch moved his family down there? A In Saline District.
- Q On whose place? A Simon Lynch's place.
- Q Same place you are living now? A Same place he is living.
- Q He was living right there when he moved his family down where he is living now? A Yes sir.
- Q Are you sure he had one child? A That is all I remember.
- Q You remember that one? A Yes sir.
- Q If Joe Lynch swears that he didn't have that child, he is mistaken isn't he? A I suppose he is.
- Q Do you know he is? A Yes sir if he swears that he didn't have it when he come.
- Q About how old was Hester when they moved there? A I don't know.
- Q You remember they had a child, how big was it? A A good big child, large enough to be walking.
- Q Walking? A Walking, yes sir.
- Q Talking? A I don't know about that.
- Q Did he come the next time in a wagon? A Yes sir.
- Q Do you remember what kind of horses he had? A No sir.
- Q They didn't tell you yesterday about that serrel team? A No sir.
- Q Didn't you hear your father say that? A No sir.
- Q Your father told you yesterday that he had moved from one place to another? A No sir.
- Q Didn't tell you that? A No sir, I knew that.
- Q But you don't know what year you moved? A No sir.
- Q You don't know anything about the years? A No sir.
- Q You don't know a single year in which a single one of your children were born do you? A Yes sir.
- Q What year was the first one born? A I couldn't say exactly.
- Q Then you don't know do you? A No I don't know that I could positively say now.
- Q You don't know what year only what they said when Joe Lynch come back do you? A No sir.
- Q You don't know what year you moved to the place where your father lives now, only what you were told? A No sir.
- Q How long had you been living there when Joe came back? A Not quite a year we moved there in the winter and the next spring I saw Joe Lynch.
- Q Simon had been living where he lives now for about a year when Joe came back? A No sir not a year.
- Q About how long? A Moved over in the winter and I saw Joe the following spring.
- Q How long had your father been living there when Joe brought his family? A Might have been three or four months.
- Q Is that your best judgment? A Yes sir.

- Q Had you put in corn? A No sir.
Q Fixing to put in corn? A Yes sir.
Q Do you know what month your father moved there? A No sir.
Q You don't know what year? A No sir.
Q What year is this? A I don't know exactly.
Q You don't know what year you were born in do you? A No sir.
Q How many children have you? A Three.
Q What year was the second one born in? A I don't know.

W: A. WEST, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A W. A. West.
Q What is your age? A 63.
Q What is your post office address? A Spavinaw.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Have you always lived, with the exception of the war, in the Cherokee Nation? A Yes sir.
Q Is that in Saline District? A Yes sir.
Q Were you in the army during the war? A Yes sir.
Q Where did you settle first after the war? A My permanent house was on the road there, on the Military road north of Grand River there where I lived.
Q When did you settle there? A About 1867, commenced it in '67 and finished it that winter, I commenced in the summer like getting out the lumber.
Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
Q Do you know where he now lives? A Yes sir, I presume I do, at the same place where he has lived, I haven't been at his house lately.
Q You have been at his house? A Yes sir, I have been there often.
Q It is claimed that he lives at the same place? A Yes sir.
Q How far is that from where you formerly lived? A It is about two and a half miles or three miles, somewhere along there, I always called it about two miles.
Q I will ask you if you knew him when he lived there that near you? A Yes sir.
Q When did he first come back to the Cherokee Nation after the war? A To the best of my recollection he came back in 1868.
Q Were you living at this place you had made? A Yes sir.
Q And you commenced that in 1867? A Yes sir.
Q What time in '67 did you commence that place? A I commenced getting out the lumber along in the spring and summer and I lived in a tent on the same road about a quarter from that place.
Q Were you living in the house when you saw this applicant? A Yes sir.
Q Where was he going? A He said he was going from Kansas, coming there to make a home in the Cherokee Nation and he inquired at my house where Simon Lynch lived.
Q Did you direct him to where Simon Lynch lived? A Yes sir, I told him Simon Lynch lived across the river somewhere about the old Lynch farm.
Q Was Joe Lynch in a wagon? A Yes sir.
Q Did he have the members of his family with him? A He had his wife and one child, as well as I remember.
Q Do you remember what kind of a team he had? A He had just a common pany team.

- Q Was your house on this old Military road? A Yes sir right along the edge of the road.
- Q When did you get that house completed, was you moved into it?
- A I moved into it in the fall of 1867.
- Q And it was not until after that time that he come along in a wagon inquiring for Simon Lynch's? A No sir, in 1868.
- Q You think it was the next year? A Yes sir the next year, and may be the following.
- Q And it couldn't have been earlier than 1868? A No sir, nor later '68 is the year as well as I remember.
- Q Was any one else along with him in the wagon besides his family?
- A No sir.
- Q He said he was from Kansas, did he? A Yes sir.
- Q And he was inquiring the way to Simon Lynch's? A Yes sir.
- Q He didn't know then at that time where Simon lived? A No sir I reckon not by his inquiring.
- Q This same Simon that you have seen here as a witness in this case? A Yes sir the same Simon.

BY MR. McKEA:

- Q You have testified in this case once before haven't you? A Yes sir.
- Q And you haven't any improvement to make by way of testimony on what you have already testified to? A No not that I know of.
- Q Do you know where Simon Lynch was living in 1866? A Across the river.
- Q He was in the Cherokee Nation in 1866 was he? A Yes sir.

BY MR. HASTINGS:

- Q Do you know of Simon Lynch's having been convicted of stealing hogs? A I have heard he was convicted.
- Q In the Cherokee courts? A Yes sir.
- Q Sent to the Cherokee penitentiary? A Yes sir.

JOE L. THOMPSON, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A Joe L. Thompson.
- Q What is your age? A 66.
- Q What is your post office address? A Vinita.
- Q Are you a Cherokee citizen by blood? A Yes sir.
- Q Where do you live, you don't live in the town of Vinita do you?
- A 12 Miles south of Vinita.
- Q How far from Grand River? A About three miles.
- Q Do you know the applicant here, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you remain in the Cherokee Nation during the war? A No sir.
- Q Where did you go, south? A Went to Texas.
- Q What year did you return after the war? A I came back in the winter of '67, I came to Fort Gibson.
- Q When did you land up there near where you live on Grand River?
- A In the spring of '66 I come to the place where I now live and made a crop, in the spring of '68 I moved on the Arsena place.
- Q Do you know where the applicant, Joe Lynch, now lives? A Yes sir
- Q How far does he live from you? A About three miles I guess.
- Q Was he living there when you came back? A No sir, not to the best of my recollection.
- Q Do you remember of his coming back there? A It was the best of my recollection, that he moved there to that place about 1869.

- Q You say he wasn't living there when you returned? A No sir.
Q And you came back yourself in the early spring of 1868? A Yes sir.
Q Was he living there when you come back in 1868? A If he was I didn't know it.
Q What is your best judgment? A He was not living where he is living now.
Q It is plain to him that he settled there the first place that he settled in the Cherokee Nation? A The best of my recollection is he never moved to the place where he lives until 1869.
Q Was that the first you saw of him in the Cherokee Nation after the war? A Yes sir.
Q Did you know him before the war? A Yes sir.
Q Did you know his owner? A Yes sir his owner was my uncle.
Q Where was you living in 1869 when you first saw this applicant? A On what was called the Arsenia place.
Q How far from Simon Lynch's? A About four or five miles the way you have to go I reckon.
Q You feel positive that this applicant was not there when you first came back in 1868? A No sir there was no improvements there when I come back in 1868.
Q Do you know Simon Lynch? A Yes sir.
Q Do you know of his being convicted of stealing hogs in the Cherokee Nation? A No sir.
Q You have heard of it? A If I did, I don't remember it.
Q You live there in Tahlequah District? A Yes sir.

BY MR. McKEAR:

- Q I understood you state that you did not return to the Cherokee Nation until sometime in 1867, is that right? A Yes sir.
Q Where were you in '66? A I guess I was in Texas.
Q If Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866 and his testimony is born out by Ed Lynch and Simon Lynch, are you prepared to say that that is not true? A I haven't said so.
Q You would not say so would you? A I was not here in 1866.
Q You have testified in this case before, haven't you? A I don't know, I guess so.
Q And you are not now prepared to add nor detract anything from the statements you first made in the case, at this time are you?
A No sir, I don't know that I am.

G. W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. HASTINGS:

- Q What is your name? A G. W. Clark.
Q What is your post office address? A Vinita.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q Were you in the Union army during the war? A Yes sir, I served nearly three years in the army.
Q When was you married? A I was married on the 8th of June, 1865.
Q Just after the war? A Yes sir, eight days after I was mustered out of the service.
Q Where did you first settle down after the war? A Upon the river in the neighborhood of where I live now.
Q Up in the north end of Saline? A Yes sir, it was Saline then but it is in Cooweescoowee now I think.

- Q That was just across the river from the north end of Saline?
- A Yes sir, I lived on the west side of the river, I made a crop there in '66.
- Q Where did you make a crop in '67? A I moved in the fall of '65 along in December to another place about ten or twelve miles from there, the place where I was, to a place in Delaware District known as six mile bottom.
- Q Near the old Joe Lynch place? A Yes sir.
- Q On which side of the river? A On the same side, west side.
- Q That was in the fall of '67? A No sir, fall of '66.
- Q Where did you live in the year 1867? A I lived there four or five years.
- Q Continuously? A Yes sir.
- Q Did you know the applicant, Joe Lynch, who is also known as Joe Buzzard? A Yes sir.
- Q Did you know him before the war? A I saw him but I don't say that I was acquainted with him.
- Q You knew his owners? A Yes sir I knew old Uncle Joe Lynch.
- Q Was he a relative of yours? A No sir.
- Q Do you know where this applicant now lives? A Yes sir, I am well acquainted with the place, about two to two and a half miles from where I lived four or five years.
- Q You moved up there in the fall of '66? A Yes sir.
- Q And you lived there four or five years? A Yes sir, may be six.
- Q When did he move back to this place after the war? A The first I recollect of seeing him I seen him at old man Simon's place, old man Simon in the fall of '66 lived on my place in this six mile bottom, after I moved there I let him have some house and lived there that winter and early in the spring of '67 he moved to what is known as the old Joe Lynch bottom.
- Q You mean Simon? A Yes sir, I loaned him a yoke of steers. to do the breaking he did there.
- Q How long after you moved to this place was it before you saw Joe Lynch at Simon's? A I didn't see him there for a couple of years.
- Q How long was it after you moved to this place where you moved in '66 before Joe Lynch came there and make this improvement? A My recollection is that he didn't make this improvement the first year after I come there.
- Q You think the first time you saw Joe was at Simon's? A That is the first time I saw him.
- Q Where was Simon living then? A Where I located him on the east side of the river.
- Q That was on your place? A No sir.
- Q And you think that was to your best judgment, 1868? A It was 1868 or '69.
- Q And you owned the place where Joe Lynch afterwards built? A Yes sir.
- Q Were you acquainted with the country before he built there?
- A Yes sir, that was on the road there where I did the most of my passing.
- Q Did you travel that road frequently? A Yes sir.
- Q About how far did Joe Lynch the applicant located from this road?
- A He located on a little ridge about 150 or 200 yards from the road, it may have been more or less.
- Q The place could be seen easily from the road could it? A Yes sir
- Q Nothing in the way? A He built his house there on the prairie.
- Q You know Simon Lynch, who has testified in this case? A Yes sir, I am well acquainted with him.

Q Do you know of his having been convicted up there in the Cherokee courts for stealing hogs? A I had moved away from there then, but I heard of it.

Mr. McRea: We object to heresay.

Commission: Objection noted.

Q It was a common report was it? A He was convicted, no common report about it.

Q What official positions have you held, you have been a member of the Cherokee Senate and Cherokee Council a number of times?

A Yes sir I was in office 16 years, I have---

Q Also on the Circuit bench? A Yes sir, eight years.

Q Solicitor of Saline District? A Two years.

Q And you were in the Union army? A Yes sir, in the third regiment

Q And your best judgment is that Joe Lynch came back, in '68 or '69? A That is when I saw him.

Q And you were living there in that same neighborhood, and he located out there on a little prairie near the road that led to the store at which you traded, and where there was a black smith shop? A It was a big prairie, three or four miles across the neck of it, it reaches from there I expect to Chetopa. From my place back there is a woodland hilly place until you get down to where the house was, and there was a little prairie there where I lived but he lived on the main big prairie.

BY MR. BELL:

Q The place that you stayed up there in six mile bottom, was that that Dirteater place? A It was known as the Jim Daniel's place before the war, I bought it from the estate.

Q How is that six mile bottom situated with reference to the river?

A The river bends around it.

Q The river is on three sides of it? A Yes sir.

Q Now in getting from your house to this store you speak about, there was only the one road? A Yes sir just one road.

Q There would have been no way of getting to your store by a road except by taking another road that didn't go in that direction?

A No sir it went north.

Q But you went from your house to the store? A Yes sir, nearly due west according to the section road.

Q That was the only road with a direct route to the store? A Yes sir.

Q That road passes then 150 or 200 yards of the place that Joe Lynch built? A Yes sir, and I think he is living there yet.

Q The McCary store was at the Kell place? A Yes sir.

Q It was the only trading point in that immediate neighborhood?

A Yes sir, the only one anywhere around there.

Q If Buzzard had this house built there in '67, you think you would have seen it? A I know I would because there was a little circumstance there, me and Walker Daniels got after a bull right there where he built that house, and right over the swag there, there in running him up there, he runed past him and the bull killed his horse or mare, hooked his insides out.

Q That was in '67? A Yes sir.

Q There was no house there then? A No sir the first that was built was built this side of there. That was before he put that up on the left hand side of the road as you went, a colored fellow fellow by the name of Beny Daniels, and the next was the house that Joe lives in.

- Q Then there was no other houses therein that country right then?
A No sir, no other house, I made a claim right across the next ridge and I let Andy Frye have that.
Q Nobody living in there? A No sir.
Q Indians or nobody else? A Nobody at all.
Q And it was in '68 or '69 before you discovered Buzzard there in this house? A My opinion is he didn't build a house there in '69, and he stayed a year in the bottom before he built a house.

BY MR. McREA:

- Q When was the first time that you saw Joe Lynch in the Cherokee Nation after the war? A It was over at Simon's in '68 or '69, I think '69.
Q You are not positive as to which? A No sir.
Q Now where was he when you saw him at that time? A He was in and around Uncle Simon's there on the place, he come in there with a pony team, and had a wife and child.
Q Were you present when he came? A No sir.
Q That was what you heard? A There wasn't but a few people there and when a man dropped in the neighborhood we knew he was a stranger, it wasn't settled like it is now, wasn't many people in the country.
Q Where was you living in the fall of '66? A I moved on this place that we were above referring to in that bottom east of where Joe Lynch built his place.
Q How far with reference to where Simon Lynch lived at that time in '66 on your place? A There were two houses on the place he occupied, one of the houses from the house I lived in right across the hill north, I expect it was 150 or 200 yards, one of the houses that he was in, that he kept one of his wives in. He kept another house, I will tell you about that. It was about a quarter of a mile south of the place and he kept his other wife there.
Q Are you prepared to dispute the statement made by Simon Lynch and Joe Lynch, that Joe Lynch came to Simon Lynch's place where he was living in the fall of '66 on horse back? A If he did I didn't see him.
Q He come have come though without your having seen him, couldn't he? A I guess he could have without my seeing him, by coming in the night and going away.
Q Answer yes or no? A He could have come, but I never seen him.
Q I understood you to say in your examination in chief that you had no special acquaintance with Joe Lynch before the war? A No sir that is right.
Q Then the first time that you ever seen him to know him was sometime in the year 1868 or '69, is that correct? A Yes sir.
Q He could have been in and around Simon's at the time he said without your knowing him in view of the fact that you had no acquaintance with him? A He couldn't have been around there very much because I watched everybody pretty close them times.
Q Sometimes? A All the time.
Q You had no acquaintance with his family? A No sir, the first time I saw his wife she was at Simon's and had a child, and then they had one regular every year.
Q You never testified before in this case? A No sir.
Q You knew all about the facts that you are testifying to now in 1901 and 1902, didn't you? A Yes sir, of course I would have, I come acquainted with them in '67 and '68.
Q You knew these fact at the time the applicant made his application for enrollment? A Yes sir.
Q And you were not called upon at that time to testify? A No sir.

- Q When was the first time that your attention was called to the fact that you would be required to testify in this case, Mr. Clark? A I don't know, think it has been more than three or four weeks ago that I received a notice from the Commission that I was summons here in this case, and it read like I had testified in the case, but I couldn't recollect that I had testified in the case. I was very well acquainted with this fellow. He was hard up and we furnished him milk all of the time, my wife and I, and she knew him better than I did, he carried milk from our house all the time, we treated him as well as we could.
- Q Do you know how long Joe Lynch had been at Simon Lynch's at the time you first saw him in '68 or '69? A No sir, I couldn't say the exact time, might have been a week or two or maybe longer.

BY MR. HASTINGS:

- Q I believe you stated that you people sort of kept a watch on the people who came into the country immediately after the war?
- A Yes sir.
- Q It was necessary in those days, was it not? A Yes sir, very necessary.
- Q And for that reason you knew about everybody that came around in your neighborhood? A Yes sir I watched everybody.
- Q You knew when you first saw Joe Lynch over at Simon's that he was a newcomer? A Yes sir, there was but a few of us and we knew when a new man came there.

BY MR. McREA:

- Q Joe Lynch testifies that he returned back to the Cherokee Nation in the fall of 1866, are you prepared to state upon your own knowledge that he didn't return up there up there at that time?
- A No he did 't return up there, I aint prepared to say in the fall whether he returned there or not.
- Q You don't know whether he did or not? A No sir.

BY MR. HASTINGS:

- Q You know you never heard of him returning there in the fall of 1866? A No sir.

BY MR. McREA:

Objected to for the reason, that it is incompetent, irrelevant, and inadmissible.

COMMISSION: Objection noted.

BY THE COMMISSION:

- Q When did you first come up in that neighborhood where you are living now and where Joe Lynch lives now? A I aint living there now.
- Q You went there after the war? A I went there several times in the summer, I think I traded for the place along in August, during the summer of '67. Summer of '66 after this Treaty was made on the 19th of July, 1866.
- Q You moved up there close to where Joe Lynch now lives in December, 1867? A '66.
- Q December, 1866? A Yes sir.
- Q You knew Mr. Clark where Simon Lynch was living when you moved up there, did you? A Yes sir, I let him move over there on my place, after I got it.

- Q From your knowledge of the people and condition as they were and the nature of the country, can you state to this Commission positively that Joe Lynch and his family did not come to that neighborhood in the Cherokee Nation until about 1868? A 1868 or '69.
- Q If at any time after December, 1866, the applicant and his family had come to that portion of the Cherokee Nation, you think you would have known it? A Yes sir, known it after a day.
- Q You don't know as to whether or not Joe Lynch himself might not before at Simon Lynch's horse back in the fall of '66 and stayed three days as they claim? A Might have been at Simon's, but he wasn't living there in the fall, he was over at the other place about six miles from there, he might have been there. This road that I ~~stays~~ told you that runs to this trading point, he lived about a mile from that down in the bottom, right above where the Military road crossed Cabin Creek.
- Q How far from where he lives now? A I suppose it is four or five miles on a direct line now since the lines were runed out.
- Q Did you ever have a conversation with Joe Lynch shortly after he returned there with reference as to whether or not that was his first trip to the Cherokee Nation after the war? A No sir.
- Q You never heard him say whether or not that was his first trip? A I don't know as I ever did.
- Q Do you know whether in the fall of 1866 that he made any foundation of a house? A He never made none there where he is living now.
- Q How old was this child that Joe Lynch and his wife brought there with them? A It seemed to be in his wife's lap.
- Q A year old probably? A I don't think it was a year old. I don't think he let them get a year old before he had another one.

CASE CLOSED.

H. M. Vance, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct copy of his stenographic notes there of.

(Signed) H. M. Vance

Subscribed and sworn to before me this 14 day of December, 1904.

(SEAL)

(Signed) Charles H. Sawyer
Notary Public.

Maggie Kennedy, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

Maggie Kennedy

Subscribed and sworn to before me this the 23rd day of December 1904.

Charles H. Sawyer
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al., for enrollment as Cherokee Freedmen, consolidating the applications of:

Joe Lynch et al.	Cherokee Freedmen D 376
Hester Fester et al.	Cherokee Freedmen D 383
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Benton et al.	Cherokee Freedmen D 387
Nancy Curis et al.	Cherokee Freedmen D 429
Rachel Downing et al.	Cherokee Freedmen D 430
Martha Lynch et al.	Cherokee Freedmen D 1077.

DECISION.

The record herein shows that applications for enrollment, as Cherokee Freedmen, were made to this Commission by Joe Lynch, for himself, his wife, Sophia Lynch, and minor children, Elina, Cynthia J., Randolph, Ruth and Jackson Lynch; by Hester Fester, for herself and minor children, James, Pearlle J., Ethel J. and Josephine Fester; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Arthur Fester; by Arthur Lynch, for himself; by John Lynch, for himself; by David Benton, for his wife, Vina Benton, and minor child, Stelle Benton; by Nancy Curis, for herself and minor child, Lula Buffington; by Walter Downing, for himself and wife, Rachel Downing; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Herbert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Martha Lynch, for herself and minor children, Jessie M. and Lee B. Lynch.

The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that, during said rebellion, they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc. vs Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1866 and are descendants of and, with the exception of Herbert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of none of said applicants herein are found on the 1860 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Hurbert Downing was born April 26, 1902; that he is the son of Walter Downing, who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored", and that the said Walter Downing, father of said Hurbert Downing, has continuously resided in the Cherokee Nation since 1880.

It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Hester Foster, James Foster, Pearlle J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Vina Benton, Stella Benton, Nancy Curls, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. Lynch and Leo B. Lynch, as Cherokee Freedmen, should be denied under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495); and it is further the opinion of this Commission that the said Hurbert Downing should be enrolled as a Cherokee Freedman, in accordance with the provisions of said Section Twenty-one of the Act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

Chairman.

Commissioner.

Commissioner.

Commissioner.

Muskogee, Indian Territory,

this _____

A. F. Mc.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Joe Lynch, et al., as Cherokee Freedmen, consolidating the appli-
cations of:

Joe Lynch et al.	Cherokee Freedmen	D	376
Robert Foster,	"	D	522
Hester Foster et al.,	"	D	383
Arthur Lynch,	"	D	384
Cyrus Lynch	"	D	385
John Lynch	"	D	386
Vina Benton et al.,	"	D	387
Nancy Curle et al.,	"	D	429
Rachel Downing et al.,	"	D	430
Nartha Lynch et al.,	"	D	1077.

-: D E C I S I O N :-

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Joe Lynch for himself and wife, Sophia Lynch, and minor children, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle J. (Jane), Ethel J. (Jane) and Josephine Foster; thereafter, on October 20, 1902, there was filed with this Commission an affidavit showing the birth, on March 20, 1902, of Arthur Foster, child of the applicant, Hester Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton; by Nancy Curle for herself and illegitimate minor child, Lula Buffington; by Walter Downing for himself, and

wife, Rachel Downing, but as the said Walter Downing has been differently classified, his rights to enrollment will not be considered in this decision; thereafter, on June 12, 1902, there was filed with this Commission an affidavit showing the birth, on April 26, 1902, of Herbert Downing, child of the said Walter and applicant Rachel Downing; and by Martha Lynch for herself and illegitimate minor children, Jessie M. (May) and Leo B. (Bennett) Lynch.

The record further shows that on March 5, 1904, this Commission rendered its decision herein denying said applicants, Joe, Sophia, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur and John Lynch, Vina and Stella Benton, Nancy Curls, Lula Buffington, Rachel Downing and Martha, Jessie M. (May) and Leo B. (Bennett) Lynch, the right to enrollment as Cherokee freedmen, and granting Herbert Downing the right to enrollment as a Cherokee freedman, and that said decision was duly forwarded to the Department; thereafter, on July 21, 1904, on Motion of the applicants, a rehearing in this case was ordered by the Department, and on September 20, and November 18, 1904, further proceedings in the matter of said applications were had at Muskogee, Indian Territory. The application of Cyrus Lynch for enrollment as a Cherokee freedman, was a part of the original record in this case, but through an oversight, his rights were not considered by the Commission in its said decision of March 5, 1904.

The evidence in this case shows that the applicants, Joe and Sophia Lynch, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and it is not shown by satisfactory evidence that they returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation; that the applicant, Robert Foster, was, at the commencement of said rebellion, and for several years prior thereto, the slave of a citizen of the State of Arkansas; and that the applicants, Eliza, Cynthia J. (Jane), Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J. (Jane), Ethel J. (Jane), Josephine and Arthur Foster, Arthur, Cyrus and John Lynch, Vina and Stella Benton, Nancy Curls, Lula Buffington (after ample opportunity afforded, it is not established that the applicant, Lula Buffington, possesses any rights to enrollment as a Cherokee freedman through her father), Rachel Downing, Martha, Jessie M. (May), and Leo B. (Bennett) Lynch, were born since the commencement of the rebellion, are descendants of the said appli-

cants, Joe and Sophia Lynch and Robert Foster, and possess no rights to enrollment as Cherokee freedmen, other than as such descendants.

The evidence further shows that the minor applicant, Herbert Downing, was born since 1896, has continuously lived in the Cherokee Nation since birth, and is a child of one Walter Downing, who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior, December 23, 1902, opposite No. 1921.

Except that the applicants, Joe, Sophia, Arthur, John and Martha Lynch, Robert and Hester Foster, Vina Benton, Nancy Curle and Rachel Downing, are identified on the Wallace roll, none of the applicants herein can be identified on any roll of the Cherokee Nation.

From the evidence herein and Cherokee Freedman enrollment cards No. D 429 and D 1077, it appears that one John Buffington is the father of the said applicant, Lula Buffington, and that one Watson Hicks, a Cherokee Indian, is the father of the applicants, Jessie M. (May) and Leo B. (Bennett) Lynch. But one John Buffington who could possibly be the father of the applicant, Lula Buffington, has applied to this Commission for enrollment, (See Cherokee Freedman D 558-R 271), and his application was denied, and said denial affirmed by the Department April 26, 1904. The records of the Commission fail to show that application has ever been made for the enrollment of anyone as a citizen of the Cherokee Nation, under the name of Watson Hicks. The correct names, as indicated by the testimony, of certain applicants herein, are enclosed in brackets.

It is, therefore, the opinion of this Commission, that, following the rulings of the Department in the cases of Eliza Bryant, et al. (I. T. D. 544-04), William Roster (I. T. D. 1468-04) Minnie Duncan, et al. (I. T. D. 1470-04), Samantha Chambers (I. T. D. 2296-04), Ed Williams (I. T. D. 4250-04), Martha Albert, et al. (I. T. D. 4732-04) and Moses Ross (I. T. D. 6056-04), the applications for the enrollment of Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. (Jane) Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Robert Foster, Hester Foster, James Foster, Pearlle J. (Jane) Foster, Ethel J. (Jane) Foster, Josephine Foster, Arthur Foster, Arthur Lynch, Cyrus Lynch and John Lynch, Vina Benton and Stella Benton, Nancy Curle, Lula Buffington, Rachel Downing, Martha Lynch, Jessie M. (May) Lynch, and Leo B. (Bennett) Lynch, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the Act of Congress below noted; and that Herbert Downing

should be enrolled as a Cherokee freedman, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Wm. H. Hix
Chairman.

(Signed) T. H. Needles
Commissioner.

(Signed) C. E. Brookhridge
Commissioner.

Dated at Muskogee, Indian Territory,
this JUN 16 1908

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CIVILIZED TRIBES.

In the matter of the application of Joe Lynch et al.,
for enrollment as Cherokee Freedmen, consolidating the applications
of:

Joe Lynch et al	Cherokee Freedmen D 376
Hester Foster et al	Cherokee Freedmen D 382
Arthur Lynch	Cherokee Freedmen D 384
John Lynch	Cherokee Freedmen D 386
Vina Denton et al	Cherokee Freedmen D 387
Wancy Gula et al	Cherokee Freedmen D 432
Rachel Downing et al	Cherokee Freedmen D 433
Martha Lynch et al	Cherokee Freedmen D 1077.

RECISE.

The record herein shows that applications for enrollment, as Cherokee Freedmen, were made to this Commission by Joe Lynch for himself, his wife, Sophia Lynch, and minor children, Eliza, Cynthia, J., Randolph, Ruth and Jackson Lynch; by Hester Foster for herself and minor children, James, Pearlle J., Ethel J. and Josephine Foster; that, subsequent to the date of the original application, a birth affidavit which is made a part of the record herein, was filed with the Commission showing the birth of Arthur Foster; by Arthur Lynch for himself; by John Lynch for himself; by David Denton for his wife, Vina Denton, and minor child, Stella Denton; by Wancy Gula for herself and minor child, Lula Juffington; by Walter Downing for himself and wife, Rachel Downing; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Murbert Downing (The said Walter Downing is differently classified and is not embraced in this decision); and by Martha Lynch for herself and minor children, Jennie M. and Lee J. Lynch.

The evidence shows that the said Joe Lynch and his wife, Sophia Lynch, were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they were taken out of the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered on February 3, 1898, in the case of Wessie Whitacre, trustee, etc., vs Cherokee Nation, for the return of freedmen to said Nation. All the other applicants herein have been born since 1866 and are descendants of and, with the exception of Murbert Downing, claim right to enrollment through the said Joe and Sophia Lynch. The names of none of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

The evidence further shows that the said Murbert Downing was born April 26, 1902; that he is the son of Walter Downing who is identified on the 1880 authenticated roll of the Cherokee Nation as "adopted colored," and that the said Walter Downing, father of said Murbert Downing, has continuously resided in the Cherokee Nation since 1880.

It is, therefore, the opinion of this Commission that the applications for the enrollment of the said Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia J. Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Lester Foster, James Foster, Pearlle J. Foster, Ethel J. Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Vina Benton, Stella Benton, Nancy Curle, Lula Wuffington, Rachel Downing, Martha Lynch, Jessie M. Lynch and Leo B. Lynch as Cherokee freedmen should be denied under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495); and it is further the opinion of this Commission that the said Herbert Downing should be enrolled as a Cherokee freedman, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Signed.	James Pixby,	Chairman.
Signed.	T.B. Needles,	Commissioner.
Signed.	C.R. Breckinridge,	Commissioner.
Signed.	W. H. Stanley,	Commissioner.

Muskogee, Indian Territory,
this Mar 5, 1904.

9

FD 430

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
day of..... A. D. 1901.

Given under my hand this
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
12 day of Sept, 1901.
A. S. McKenney
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A. D. 1901

Subscribed and sworn to before me
this..... day of..... A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES:

FILED
SEP 12 1901



ACTING CHAIRMAN.

Served
SEP 12 1901

NOTICE!

IN THE MATTER OF The application of *Rachel Downing*
for enrollment as a Cherokee Freedman;

Case No. F. D. *480*

To *Rachel Downing or A. J. H. Rea atty*

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of *Vinita, Indian Territory*, Indian Territory, on the following dates, to-wit: *Oct 1st* at *8 o'clock A. M.* A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this *12th* day of *Sept.*, 1901.

L. B. Bell

Attorneys for the Cherokee Nation.

Cher. F.D-480.

Muskogee, Indian Territory, June 4, 1902.

Walter Downing,

Chelsea, Indian Territory.

Dear Sir:

The affidavit as to the birth of your child Harbert is returned to you herewith for the reason that your wife states in the affidavit that she is a citizen by blood of the Cherokee Nation, and that you are a citizen by blood of the Cherokee Nation.

It appears from the records of this Commission that you are both freedmen, which fact must be shown in the affidavit.

Yours truly,

Acting Chairman,

Encl. C-41.

Cherokee Freedmen
D-376 et al.

Muskogee, Indian Territory, April 29, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch et al., granting the application for the enrollment of Hurbert Downing as a Cherokee freedman, and rejecting all the others included in said case.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission as to Hurbert Downing, a copy of which protest you will be required to furnish Walter Downing. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Enc. D-23.

Chairman.

Cherokee Freedmen
D-376 et al.

Muskogee, Indian Territory, April 29, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch et al., granting the application for the enrollment of Hurbert Downing as a Cherokee freedman, and rejecting all the others included in said case.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission as to Hurbert Downing, a copy of which protest you will be required to furnish Walter Downing. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Enc. D-25.

Chairman.

Cherokee Freedmen
D 376, et al.

Muskogee, Indian Territory, May 17, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Joe Lynch, et al., including the Commission's decision dated April 20, 1904, granting the application for the enrollment of Hubert Downing as a Cherokee freedman and rejecting the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth, Jackson, Arthur and John Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Vina and Stella Denton, Nancy Carlis, Lula Buffington, Rachel Downing, and Martha, Jessie M. and Lee B. Lynch as Cherokee freedmen.

Respectfully,

Tame Dixie

Chairman.

Encl. V-46

Through the
Commissioner of Indian Affairs.

Copy

Cherokee Freedmen
D 376, et al.

Muskogee, Indian Territory, May 17, 1904.

A. S. McRae,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 364, 366, 367, 429 and 430, together with a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe, Sophia, Eliza, Cynthia J., Randolph, Ruth and Jackson Lynch, Hester, James, Pearlle J., Ethel J., Josephine and Arthur Foster, Arthur Lynch, John Lynch, Vina and Stella Benton, Nancy Carla, Lula Buffington and Rachel Downing, as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings had in Cherokee Freedmen doubtful cases 376 and 383.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. V-44
Register

Chairman.

Cherokee Freedmen

D 430

Muskogee, Indian Territory, May 17, 1904.

Walter Downing,

Chelsea, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Joe Lynch, et al., granting your application for the enrollment of your minor child, Hurbert Downing, as a Cherokee freedman, and rejecting, among others, your application for the enrollment of your wife, Rachel Downing, as a Cherokee freedman. There has this day been forwarded to your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Tame Birby

Chairman.

Encl. V-41

Register.

Refer in reply to the following:

Land.

Copy.

C.F.L.

33874-1904.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. July 15, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized tribes dated May 17, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Joe Lynch for himself, his wife, Sophia Lynch and his five minor children, Eliza, Cynthia, J. Randolph, Ruth and Jackson Lynch; of Hester Foster for herself and her four minor children, James, Pearlle J. Ethel J. Josephine and Arthur Foster; of Arthur Lynch for himself; of David Benton for his wife, Vina Benton, and minor child, Stella Benton; of Nancy Carls for herself and her minor child, Lulla Buffington; of Rachel Downing for herself and her minor child, Herbert Downing; and by Martha Lynch for herself and her minor children, Jessie M. and Leo B. Lynch.

March 5, 1904, the Commission decided that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that none of the applicants are identified on the 1880 authenticated Cherokee roll, but all who were then living are found on the roll of citizens of the Cherokee Nation;

that the applicants, Joe Lynch and his wife Sophia Lynch were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and returned prior to February 11, 1867, established a home and have resided in the Cherokee Nation to the date of the record. The other applicants are descendants of Joe and Sophia Lynch and their sole title to enrollment is derived from them. The only question in the case appears to be when Joe and Sophia Lynch returned to the Nation, and the testimony of Joe Lynch is sustained by that of Allen Lynch and Anderson Lynch who swear that he returned prior to February 11, 1867.

On the part of the Cherokee Nation, C. L. Lynch testifies that he did not see the principal applicant, Joe Lynch, until 1901; Joseph L. Thompson that he did not see him until 1866; Walter A. West, did not see him until 1868.

The witness, Ross Craven, introduced by the Cherokee Nation, swears that he knew Joe and his wife, Sophia Lynch in Iola, Kansas, from 1866 to 1874 or 5, and they had twenty-two children at that time. The testimony of this witness is not satisfactory and in pertinent particulars he appears uncertain.

It appears that the Cherokee Nation conceded from the testimony of their own witnesses that Joe Lynch was in the Nation in 1868 with his wife, Sophia and Children, and as it is shown in evidence that Sophia was but seventeen years of age

at that date, the testimony of the witness, Craven, that she had twenty-two children at any time when he swears that he knew them, between 1866 and 1875, is a manifest falsehood.

In view of the record it is recommended that the Commission's decision adverse to the applicants be reversed, and the applicants enrolled as Cherokee freedmen.

Very respectfully,

A. C. Tenner

Acting Commissioner.

M.H.W.

W.

3 encl.

D.C. 25621-1904.

I.T.D. 5794-1904.

J.P.
788

COPY

LRS

DEPARTMENT OF THE INTERIOR,

WASHINGTON,

July 21, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

July 15, 1904, the Acting Commissioner of Indian Affairs submitted the Cherokee freedman case consolidating the applications of Joe Lynch, et al; Hester Foster, et al; Arthur Lynch; John Lynch; Vira Benton, et al; Nancy Garis, et al; Rachel Downing et al; and Martha Lynch, et al, and recommended that your decision adverse to the applicants be not concurred in and that you be directed to enroll such applicants.

Accompanying the papers is a motion for a rehearing, filed in the Indian Office by Joe Lynch for himself and the other applicants who claim through him, with letter from George P. Togle, of Vinita, Indian Territory, of June 8, 1904, which is not mentioned by the Acting Commissioner.

The Department does not feel warranted in reversing your decision upon the testimony presented.

The motion for rehearing bears no evidence of service upon the attorney for the Cherokee Nation, but in view of the showing made thereby, and particularly of the recommendation of the Indian Office, the Department deems it advisable to order a rehearing in the case, and the same is hereby directed.

A copy of the Acting Commissioner's letter, and the testimony with papers attached, also the application for rehearing with affidavits attached, are inclosed.

Respectfully,

(Signed) Thos. Ryan,

Acting Secretary.

3 inclosures.

Cherokee Freedmen

D-430.

Muskogee, Indian Territory, August 10, 1904.

A. S. McRea,

Attorney for Walter Downing, et al.,

Muskogee, Indian Territory,

Dear Sir:

In the matter of the application of Walter Downing for the enrollment of Rachel and Herbert Downing as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of July 21, 1904, remanding the Commission's decision of April 20, rejecting the application for the enrollment of Rachel Downing and granting the application of Herbert Downing.

It is stated in said letter that the Commissioner of Indian Affairs recommends that the Commission's decision be reversed and the applicants be enrolled as Cherokee freedmen, and according to instructions contained therein the principal applicant has this day been advised that he will be allowed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Monday, September 19, 1904, and introduce the testimony of such witnesses as he may be able to procure in support of his said application.

Respectfully,

Register.

Commissioner in Charge.

Cherokee Freedmen

D-430.

Muskogee, Indian Territory, August 10, 1904.

Walter Downing,

Chelsea, Indian Territory.

Dear Sir:

In the matter of your application for the enrollment of Rachel and Herbert Downing as Cherokee Freedmen, you are advised that the Commission is in receipt of departmental letter of July 21, 1904, remanding the Commission's decision of April 20, rejecting the application for the enrollment of Rachel Downing and granting the application of Herbert Downing.

It is stated in said letter that the Commissioner of Indian Affairs recommends that the Commission's decision be reversed and the applicants be enrolled as Cherokee Freedmen, and according to instructions contained therein you are hereby advised that you will be allowed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Monday, September 19, 1904, and introduce the testimony of such witnesses as you may be able to produce in support of your said application.

Respectfully,

Register.

Commissioner in Charge.

COPY

Cherokee Freedmen,
D-430.

Muskogee, Indian Territory, October 18, 1904.

A. S. McRea,

Attorney for Rachel Downing et al.,

Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Rachel Downing, et al., as Cherokee Freedmen, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Thursday, November 17, 1904.

Walter Downing has this day been notified that he will be permitted to appear on said date and introduce such testimony as he may desire in support of said application.

Respectfully,

Register.

T. B. Needles
Commissioner in Charge.

COPY

Cherokee Freedman,
B-430.

Muskogee, Indian Territory, October 13, 1904.

Walter Downing,

Chelsea, Indian Territory.

Dear Sir:

In the matter of your application for the enrollment of Rachel and Herbert Downing as Cherokee Freedmen, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M., on Thursday, November 17, 1904, at which time you will be permitted to appear and introduce such testimony as you may desire in support of said application.

Respectfully,

SIGNED *I. B. Needles*
Commissioner in Charge.

Register.

Cherokee Freedmen

D-430.

Muskogee, Indian Territory, June 16, 1905.

Rachel Downing,

Chelsea, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for your enrollment, and granting the application for the enrollment of your minor child, Hurbert Downing, as Cherokee freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-29
Register.

Jane Dixby.
Chairman.

COPY,

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1905.

A. S. McRea,

Attorney for Joe Lynch, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting, among others, the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-31.
Register

Tamo Dixby
Chairman.

COPY.

Cherokee Freedmen

D-376, et al.

Muskogee, Indian Territory, June 16, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 16, 1906, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-33.

(SIGNED) *Tams Dixie*
Chairman.

COPY

Cherokee Freedmen
D-876, et al.

Wastogee, Indian Territory, June 16, 1905.

The Honorable,

The Secretary of the Interior,

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Joe Lynch, et al., as Cherokee freedmen, including the Commission's decision dated June 16, 1905, granting the application for the enrollment of Herbert Downing, and rejecting the applications for the enrollment of Joe Lynch, et al., as Cherokee freedmen.

On July 21, 1904, the Department remanded this case for rehearing and readjudication.

Respectfully,

Incl. 8-34.

Through the

Commissioner of Indian Affairs.

SIGNED: *Tamie Bixby*
Chairman

JF Jr.
LLB

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D. 8180-1905.

January 4, 1907.

8906- "
8529- "
8737- "
8739- "

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 11, 1905 (Land 47227), the Indian Office submitted the record in the matter of the application for enrollment as Cherokee freedmen by Joe Lynch for himself and wife, Sophie Lynch, and minor children, Eliza, Cynthia Jane, Randolph, Ruth, and Jackson Lynch; by Robert Foster for himself; by Hester Foster for herself and minor children, James, Pearlle Jane, Ethel Jane, Josephine, and Arthur Foster; by Arthur Lynch for himself; by Cyrus Lynch for himself; by John Lynch for himself; by David Benton for his wife, Vina Benton, and minor child, Stella Benton by Nancy Curls for herself and illegitimate minor child, Lula Buffington; by Walter Downing for his wife, Rachel Downing, and his minor child, Hurbert Downing, and by Martha Lynch for herself and her illegitimate minor children, Jessie May and Leo Bennett Lynch, including the decision of the Commission to the Five Civilized Tribes dated June 16, 1905, favorable to Hurbert Downing and adverse to all the other applicants.

The Indian Office recommended that the decision of the Commission be approved. A copy of its letter is inclosed.

September 7, 1905, the attorneys for the applicants filed motions for review of said decision.

The Cherokee Nation filed argument.

There appears to be no proper reason for granting said motions and they are hereby denied.

The Department concurs in the recommendation made, and the Commission's decision is hereby affirmed.

The papers in the case, including the motions for review, have been sent to the Indian Office for its files.

Respectfully,

Through the Commissioner
of Indian Affairs.

(Signed) Thos Ryan
First Assistant Secretary.

17 inclosures.

Cherokee F.
D-376 et al.

Muskogee, Indian Territory, January 18, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Hubert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed September 7, 1906, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. H-55
JMK

Commissioner.

Charles F.
B-376 et al.

Muskogee, Indian Territory, January 18, 1907.

Blue & Bulger,

Dexter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, granting the application for the enrollment of Herbert Downing and rejecting the applications for the enrollment of Joe Lynch, et al., was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the said case, filed by you September 7, 1905, denied.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Encl. B-64
JMM

Commissioner.

Cherokee F.
D-430.

Muskogee, Indian Territory, January 18, 1907.

Rachel Downing,
c/o Walter Downing,
Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated June 16, 1905, rejecting, among others, the application for your enrollment and granting the application for the enrollment of your child, Hurbert Downing, as Cherokee freedman, was affirmed by the Secretary of the Interior, January 4, 1907, and a motion for review of the Cherokee Freedmen enrollment case of yourself, et al., filed by your attorneys September 7, 1905, denied.

You will be advised when the name of your child has been placed upon a schedule of Cherokee freedmen and approved by the Secretary of the Interior.

Respectfully,

JMH

Commissioner.

73. F.D. 233

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 10 1901

 ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 10, 1901
Post Office Chillicothe, Ga.
District 100

1. Name _____ Age _____
Owner's name _____ Citizenship _____
Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____
Mother _____ Citizenship _____

2. Name of wife Rachel Downing Age 21
Owner's name _____ Citizenship _____
Year _____ Page _____ No. _____ District _____

Parents:

Father Jos. Lynch - living Citizenship _____
Mother Sophia " - living Citizenship _____

Names of Children:

No.	Year	Page	No.	Dist.
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

(Large handwritten signature across the table)

Application made by Walter Lynch (husband) Chas. von Weiz
Scribe

Art. of marriage required
X/Kef

7B. J.D. 430

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
MAY 29 1901



ACTING CHAIRMAN

CHEROKEE FREEDMEN.

Date May 29, 1901
 Post Office Chula, S. C.
 District Cor

1. Name _____ Age _____
 Owner's name _____ Citizenship _____
 Year _____ Page _____ No. _____ District _____

Parents:

Father

Mother

2. Name of wife Rachel Downing Age 21
 Owner's name _____ Citizenship _____
 Year Wallace Page 123 No. 2394 District Cor

Parents:

Father

Mother

Joe Lynch - living Citizenship _____
Doyle - " " Citizenship _____

Names of Children:

	Year	Page	No.	Dist.
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

Application made by M. L.

Stenographer

On Wallace roll as Rachel Lynch

MAY 29 1901.

Ref. to Walter Downings card (on card only)
A. S. McRhea, agent for applicant.

Fredman 20 7 8 430

IN RE

Application for Enrollment of
INFANT CHILD

Humbert Snowing
as a citizen of
Cherokee Nation.

Approved June 12th 1902
T. B. Needles.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED

JUN 12 1902

[Signature]

U.S. DEPARTMENT OF THE INTERIOR

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Snyderman and _____
IN THE APPLICATION FOR ENROLLMENT, as a citizen of the *Cherokee* Nation,
of *Hubert Downing*, born on the *26* day of *April*, 190*2*
Here insert name of child.
Name of Father: *Mittie Downing* a citizen of the *Cherokee* Nation.
Name of Mother: *Rachel Downing* a citizen of the *Cherokee* Nation.
Postoffice *Chelsea, I. T.*

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, *Rachel Downing*, on oath state that I am *22*
Snyderman Blood years of age and a citizen, by of the *Cherokee* Nation;
that I am the lawful wife of *Mittie Downing*, who is a citizen, by
Snyderman Blood of the *Cherokee* Nation; that a *male* child was
(Male or Female.)
born to me on *26* day of *April*, 190*2*; that said child has been named
Hubert Downing, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.)

*Seal.*Subscribed and sworn to before me this *23* day of *May*, 190*2*.*David G. Elliott*

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, *May Downing*, a *midwife*, on oath state that I
attended on Mrs. *Rachel Downing*, wife of *Mittie Downing*
on the *26* day of *April*, 190*2*; that there was born to her on said date a *male*
(Male or Female.)
child; that said child is now living and is said to have been named *Hubert Downing*

WITNESSES TO MARK:

(Must be Two Witnesses.)

W. F. Norris
*Remiller*Subscribed and sworn to before me this *26* day of *May*, 190*2*.*David G. Elliott*

Notary Public.

Card # 430

33

IN RE

THE DEATH OF

Herbert Downing

a citizen of the

Cherokee Nation.

Approved.....

190

Commissioner.

**DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.**

In the matter of the death of Herbert Dunning
(Here insert name of deceased.)
a citizen of the Cherokee Nation, who formerly resided at or near
Chaffee (Here insert name of postoffice), Ind. Ter., and died on the 16th day of
October 1903.

AFFIDAVIT OF RELATIVE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
North DISTRICT.

I, Ira Lane, on oath state that I am 31
years of age and a citizen, by adoption of the Cherokee Nation;
that my postoffice address is Ketchikan, Ind. Ter.; that I am
a second cousin of Herbert Dunning
(State relationship as: the father; an uncle; a cousin, etc.) (Here insert name of deceased.)
who was a citizen, by adoption of the Cherokee Nation;
and that said Herbert Dunning died on the 16th day of
October 1903.

WITNESSES TO MARK:

(Must be Two Witnesses.) Pink Sanills
R. L. Farrar

Subscribed and sworn to before me this 30th day of March 1905.

C. M. Roberts
Notary Public.

AFFIDAVIT OF ACQUAINTANCE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
North DISTRICT.

I, Nelson Hardrick, on oath state that I am 40
years of age, and a citizen by adoption of the Cherokee Nation;
that my postoffice address is Ketchikan, Ind. Ter.;
that I was personally acquainted with Herbert Dunning
(Here insert name of deceased.)
who was a citizen, by adoption of the Cherokee Nation;
and that said Herbert Dunning died on the 16th day of
October 1903.

WITNESSES TO MARK:

(Must be Two Witnesses.) R. L. Farrar
Nelson Hardrick

Subscribed and sworn to before me this 30th day of March 1905.

C. M. Roberts
Notary Public.

IN RE
THE DEATH OF

Herbert Downing
a citizen of the

Cherokee Nation.

Approved July 15 1904

J. R. Buckner
Commissioner

JUL 15 1904

JUL 13 1904

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of Herbert Downing
(Here insert name of deceased)
 a citizen of the Cherokee Nation, who formerly resided at or near
Chaffee, Ind. Ter., and died on the 28 day of
November, 1903
(Here insert name of post office)

AFFIDAVIT OF RELATIVE.

UNITED STATES OF AMERICA,
 INDIAN TERRITORY,
Northern District.

I, Walter Downing, on oath state that I am 24
 years of age and a citizen, by adoption, of the Cherokee Nation;
 that my post office address is Chaffee Ind. Ter.; that I am
father of Herbert Downing
(state relationship as the father, an uncle, a cousin, etc.) (Here insert name of deceased)
 who was a citizen, by adoption, of the Cherokee Nation;
 and that said Herbert Downing died on the 28 day of
November, 1903
(Here insert name of deceased)

WITNESSES TO MARK:

(Must be Two
 Witnesses)

Subscribed and sworn to before me this 11 day of July, 1904

my Com. exp. Apr 7-1906

Walter S. Dugger
 Notary Public.

AFFIDAVIT OF ACQUAINTANCE.

UNITED STATES OF AMERICA,
 INDIAN TERRITORY,
Northern District.

I, John L. Lynch, on oath state that I am 45
 years of age and a citizen, by adoption, of the Cherokee Nation;
 that my post office address is Viitta Ind. Ter.;
(Here insert name of post office)
 that I was personally acquainted with Herbert Downing
(Here insert name of deceased)
 who was a citizen by adoption, of the Cherokee Nation;
 and that said Herbert Downing died on the 28 day of
November, 1903
(Here insert name of deceased)

WITNESSES TO MARK:

(Must be Two
 Witnesses)

Subscribed and sworn to before me this 11 day of July, 1904

my Com. exp. Apr 7-1906.

Walter S. Dugger
 Notary Public.

FD430

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Rachel Downing,

Chelsea, I.T.

Cherokee F-D-430

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

Cher. Fr. K. 888

Trans. from Cher. Fr. D. 434

Cher. Fr. R. 888

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COMMISSIONER

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the motion to reopen and reconsider the application for the enrollment of Daniel Whitmire as a freedman citizen of the Cherokee Nation. C. F. D. 434.

Reply of the Cherokee Nation.

The record in this case shows that Daniel Whitmire appeared before the Commission at Chelsea, I. T., on May 29, 1901, and made application to be enrolled as a freedman citizen of the Cherokee Nation, giving his postoffice address as Elliott, I. T. The record further shows that he was denied by the Commission to the Five Civilized Tribes on July 10, 1907, wherein the commission held:

"The evidence shows that applicant Daniel Whitmire was the slave of a Cherokee citizen at the commencement of the Rebellion; that during said rebellion he left the Cherokee Nation, afterwards returning thereto with Peter Meigs and Sam Webber and their families and claims that said return was in the fall of 1866; but the commission has found, in the case of Elizabeth Meigs, Cherokee Freedmen D 391, that, though Peter Meigs, together with Sam Webbers and others, returned to the Cherokee Nation prior to January 19, 1867, they did not bring their families with them until a subsequent trip made in February or March, 1867. Hence, it appears that the said Daniel Whitmire, who came with said families, did not return to the Cherokee Nation within six months after July 19, 1866, and his name is not found on the 1880 authenticated roll of the Cherokee Nation."

The case was remanded for additional consideration on behalf of the Commission, and on November 15, 1904, judgment was again rendered by the Commission to the Five Civilized Tribes, rejecting the applicant, and reiterating the finding as hereinabove set forth. Subsequent to that time and on September 7, 1905, attorneys for the applicant filed a motion for review of the commission's decision, and on June 25, 1906, the Secretary of the Interior refused the motion for review and affirmed the action of the Commission to the Five Civilized Tribes in rejecting the applicant on November 5, 1904.

As above observed, the original application was made on May 29, 1901, and the final affirmation by the Department was on June 25, 1906, or more than five years after the original application was made on behalf of the applicant. The applicant filed a motion for review, as above stated, in

September, last, and this motion for review was denied at the same time the decision of the Commission to the Five Civilized Tribes rejecting the applicant, was affirmed. The applicant, however, files another motion to reopen and reconsider his application and attached thereto are two affidavits, one signed by Dunk Vann, who is a freedman citizen of the Cherokee Nation, and one by his wife, Katie Vann, who is also a freedman citizen, and who signs her name by ex mark. Both of them give their postoffice address as Lenapah, although they live in the country near there, while the applicant Daniel Whitmire gives his postoffice address as Elliott, and an inspection of the map will show that Elliott is about six miles north of Lenapah, and inasmuch as all parties live in the country, they may live much nearer than the six miles. We call the attention of the Department to this to show that, although this application has been pending for five years, and testimony taken in it from time to time, and although Daniel Whitmire has been represented by counsel; and although he made a motion to review the case in September, last, he made no effort whatever to get either Dunk Vann or Katie Vann before the Commission to testify. The truth is, neither Dunk Vann, nor Katie Vann, lived on Big Creek immediately after the war, but went there a number of years after the war, as their testimony in other cases shows. They did not claim to come from Kansas with the different detachments, were not in the crowd, and therefore were not in a position, as were other parties who claim to have returned at the same time the applicant did, to testify definitely upon this point. Of course these ignorant freedmen do not know the difference between 1866 and 1867; they had no reason to know whether the applicant returned that year or the next, or five years thereafter, and if we apply our own experience to cases of this kind we will find that unless there is some special reason, our memories cannot be trusted to recollect these things which happened 40 years ago. Katie Vann shows that she cannot sign her name, and she is therefore an illiterate freedwoman. Dunk Vann claims that he saw Daniel Whitmire at William Foreman's house in the fall of 1866. Now the Commission to the Five Civilized Tribes has found in this case twice, after a careful review

of the testimony submitted in it, that the Sanders, Webbers and Whitmires did not remove to the Cherokee Nation with their families, and these three families headed the different detachments that first landed in the Cherokee Nation, until the last of February or the first of March, 1867; the Commission found the same to be true after a most exhaustive inquiry in the case of Elizabeth Neigs, F. D. 391; also in the case of Edward Derrick, also known as Wright, F. D. 316. We had the testimony in the case of Edward Wright made a part of the record in this case for the purpose of showing when the Whitmires returned to the Cherokee Nation with their families. Much of this is record testimony taken from the proceedings of the Chambers court in 1878-9, when Aaron Whitmire, himself, Moses Whitmire, Lewis Whitmire, and other members, were applying to be admitted to citizenship as Cherokee freedmen before the Chambers Court claiming to be entitled under the 9th Article of the treaty of 1866. These applications all show that Moses Whitmire and Lewis Whitmire and Aaron Whitmire did not at that time claim to have returned with their families to the Cherokee Nation until the last of February or the first of March, 1867, and they introduced proof before the Chambers Court to establish that, and it was for this reason we introduced this record. The Department, in discussing the weight that should be given tribal courts, in the Harry Still case said:

"The Commission should regard itself rather as a court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years."

In these whitmire cases the testimony introduced by them in 1878-9 then 12 years after the ratification of the treaty of 1866, has been preserved to us. Along with this case, and as a witness in it, is the testimony of Aaron Whitmire, one of the applicants in 1878-9 before the Chambers Court. I am constrained to say, in justice to Aaron Whitmire in this case, that when he testified as to 1866 that he did not intend to say that Daniel Whitmire came back at that time, nor did he intend to say that any families returned in 1866. I can see how he could be confused, when a rather lengthy question was asked him, and he replied to one part,

instead of the other. I am constrained to believe that he testified that Bill Foreman came back with some of them in the fall of 1866, but certainly he did not intend to say that Daniel Whitmire, himself, returned, although it is contended that Daniel Whitmire returned when Bill Foreman came back with him family. The applicant was asked?

"Q. Do you know anything about who brought you back, or when you come back? A Yes sir.

"Q. Tell me what you know? A Uncle Billy and aunt Vicoy, I always used that word, I came back with them, and Sam and ~~Aaron~~ Aaron Whitmire and Sam Webber.

"Q. He came back the same time? A Yes sir."

Later on, after testifying that Sam Webber came back with him, he was asked:

"Q. Who else was it came with you? A Aaron Whitmire.

"Q. Did he have a wife at that time? A Yes sir.

"Q. Give her name? A I can't call it just now; I know it well, too."

Anyway, he makes it clear that he claims to have come back at the time they removed their families to the Cherokee Nation.

Now, Aaron Whitmire has testified in a number of cases before the Commission to the Five Civilized Tribes and notably in the Charlotte French case, being that of Cherokee Freedmen doubtful 1012, and inasmuch as ex parte statements are received by the applicant we herewith append the statement of Aaron Whitmire, himself, made before the Commission in the case of Cherokee Freedmen D 1012, on December 23, 1904, in which he goes into details about some of the men folks coming to the Cherokee Nation in August of 1866, and afterwards in December, 1866, and he

testifies himself most positively that no women were brought to the Cherokee Nation and no families removed until the last of February or the first of March of 1867. He was not only asked this question once, but perhaps a dozen times throughout this examination, and rather than quote from this examination we prefer to have the same copied and appended to this answer for easy reference. In order to do him justice, we desire to say that we believe when he testified in the Daniel Whitmire case that he had reference to the return of the men folks in the fall and not to the individual return of Daniel Whitmire. This statement made by Aaron Whitmire was cross-examined by Mr. Bulger of the firm of Blue & Bulger, who succeeded Mellette & Smith, the original representatives of Daniel

Whitmire. It will be observed that his statement in the Charlotte French case completely bears out, and is in harmony with, the statement made by Aaron Whitmire and his witnesses and the other Whitmires before the Chambers Court in 1878-9, when it was very easy to prove when all Cherokee Freedmen returned to the Cherokee Nation.

As above observed, the Commission and the Department has found in a number of cases that these freedmen did not return until some time in March of 1867, and we have taken occasion to argue this so fully in such a great number of cases, and the statement is so clear and explicit in this statement of Aaron Whitmire's hereto appended that we deem it unnecessary to make any lengthy argument with reference thereto.

However, we desire to call the attention of the Department to the fact that Dunk Vann does not show any reason why he ought to know when Daniel Whitmire removed to the Cherokee Nation, he does not show where he was residing; in other words, he does not show his means of knowledge, neither does Katie Vann. In Cherokee Allotment Contest case No. 712, the Commissioner to the Five Civilized Tribes on June 6, 1906, held:

"The rule is general that a new trial or rehearing will not be granted on a mere showing that new evidence has been discovered. Newly discovered evidence in order to be sufficient must possess the following requisites:

- (a) It must be such as would probably change the result if a new trial is granted.
- (b) It must be discovered since the trial.
- (c) It must be such as could not have been discovered before the trial by the exercise of due diligence.
- (d) It must be material to the issues.
- (e) It must not be merely cumulative to the former evidence.
- (f) It must not be merely impeaching or contradicting the former evidence."

Now lets apply the case at bar to the rules herein laid down which embodies sound law. In the first place, without Dunk Vann and Katie Vann showing any superior knowledge, without their showing that they were in any better position to know as to the date of the return of Daniel Whitmire, and without their have any special reason for knowing the exact date, it is clear that their testimony would not change the result. You will observe that Daniel Whitmire swears himself that he came back at the same time that Aaron came and brought his wife, and Aaron Whitmire swears not only once, but perhaps as many as a dozen times throughout his testimony in the Charlotte French case, as he did before the Chambers

Court in 1878-9, that no women ever came with him until the spring of 1867--too late to qualify under the treaty of 1866. Now then suppose Dunk Vann and Katie Vann were to swear that they saw this applicant 40 years ago, would that offset this statement of Aaron Whitmire's, who swears positively now and who swore positively twelve years after the treaty of 1866, that he never brought his family to the Cherokee Nation until the spring of 1867. Second, the above requirements provided that the testimony could not have been discovered before the trial by the exercise of due diligence, whereas it is shown that Dunk Vann and his wife and the applicant now live in the same community, only a few miles apart, and no reason whatever is assigned why they were not brought before the Commission during the five years in which the case was pending before the Commission or the Department. The Department has held:

"In motions for rehearing resting on newly discovered evidence, it should be shown that said evidence should not be discovered by due diligence and the facts showing such diligence should appear." *Moore versus Larney*, Creek No. 49; 6 L. D. 9; 7 L. D. 136; 10 L. D. 483; 18 L. D. 31; 19 L. D. 543.

In 2 Ark. 346, being the case of *Qlmstead versus Hill*, the Court held:

"The doctrine in regard to granting new trials upon the ground of newly discovered testimony is fully explained and established in the case of *Robbins vs. Fuller*, 2 Ark. 133. Indeed the authorities are so numerous and full upon the point, and the reasons and principles upon which they rest are so obvious and conclusive that it seems almost impossible to overlook the essential requisites that the law requires to entitle a party to a new trial. He must have been guilty of no neglect or laches in preparing his case for trial. It must have been out of his power to procure the newly discovered evidence upon the former trial by due diligence and exertion to obtain it; and he must show to the Court that the newly discovered evidence is material and important by the affidavit of the witnesses or by some other legal means, so that the Court may judge of its materiality and sufficiency; and it must not be cumulative in its character and consequences. It is the duty of the parties to come prepared upon the principal points and new trials would be endless if every additional circumstance bearing upon the facts in litigation were the cause for a new trial."

We desire to call special attention to the last sentence hereinabove quoted, to the effect that new trials would be endless if every time an additional circumstance came to the knowledge of a litigant it was seized upon for the purpose of getting a case reopened for a new trial. In the case of *White versus The State* 17 Ark. 403, among other things, the Court held; in discussing the requisites of a motion for a new trial upon newly

discovered evidence:

"It must be such as reasonable diligence on the part of the defendant could not have secured at the former trial."

In 25 Ark. 334, the court held:

"The plaintiff failed to make a sufficient showing for a new trial; first, he does not present facts proving that he had used any degree of diligence to procure this evidence."

Now we submit that no diligence whatever is attempted to be shown. True, the applicant in his affidavit says that he did not know of it, but he does not set forth any reasons why he could not have inquired of his neighbors around him to ascertain what they knew or what they would swear to as to his return.

In 25 Ark. 380, Peterson versus Gresham, the Court, with reference to granting motion upon the ground of newly discovered evidence, held:

"It is unnecessary to notice this newly discovered evidence as the defendant simply alleges in his motion that he has used due diligence in the preparation of his case and in procuring evidence before the trial, but states no facts or circumstances to show any diligence whatever. Due diligence or what constitutes it is to be determined by the court and not by the party alleging it, and the facts and circumstances must be shown so the court may decide whether it has been used or not."

We submit that this correctly states the law, and we further submit that if the applicant every time he can get a fellow freedman to make an affidavit claiming to have seen him in 1866 and submit that affidavit with his own ex parte statement and get a motion to reopen allowed, then there would never be an end to citizenship cases in this or any other country.

In 28 Ark. 121, the court held:

"Applications for new trials on the ground of newly discovered evidence are to be received with caution and this in proportion to the magnitude of the offense..... and it is not sufficient for the applicant to state that he did not know of the existence of the testimony in time to have brought it forward on the trial, but it must appear that he could not have ascertained it by reasonable diligence."

This is our case exactly, and we desire to call special attention to it. Here the court said it was not sufficient for the applicant to allege that he did not know of the existence of the testimony, but it must appear that he could not have ascertained it by reasonable diligence. The applicant in this case says that he did not know of the existence of the testimony, just as the Court says was not sufficient in 28 Ark. 121,

but he does now show that he used any diligence whatever in attempting to find out what these witnesses knew. In 30 Ark. 724, the court refused a motion to reopen because no diligence whatever was shown.

We have argued cases similar to this so often and finding no argument whatever against our contention, and in fact finding no decision of any court against our contention, and no decision of the department against our contention, where the Department decided the matter, that we have no disposition to continue the argument at length. It must be apparent to everyone that if motions to reopen are going to be allowed because a freedman applicant swears that he did not know of certain testimony, then appends some ex parte affidavits to his motion that there will never be any end to the investigation of citizenship cases in the Cherokee Nation, because as fast as one motion is disallowed and before the expiration of sixty days allowed under the law another motion prepared, with some more affidavits attached, and not only will one, but his example will be followed by all.

We submit that this testimony would be merely cumulative and as found by all of the decisions of the courts these motions to reopen should not be allowed upon that ground.

Finally we submit that the investigations of the Commission and the testimony in this case, and the testimony of Aaron Whitmire appended hereto, thoroughly show that the families with whom Daniel Whitmire, the applicant, claims to have returned first/^{returned} to the Cherokee Nation in March of 1867--too late to qualify under the treaty of 1866; second, we submit that no diligence whatever has been shown on behalf of the applicant; third, we submit that the testimony of Junk Vann and Katie Vann, whose ex parte affidavits are attached, will not change the result of this case; fourth, we submit that one motion to review has already been filed and overruled in this case; fifth, we submit that the testimony is cumulative; and finally we submit that there is no merit whatever in the case, that the Commission has twice decided, and the Department has affirmed the last decision of the Commission to the effect that the applicant is not entitled to be enrolled as a freedman citizen of the Cherokee Nation, and for these reasons we submit that the motion to reopen and review should not be allowed, but should be denied?

Respectfully submitted,

W. W. Hastings
Attorney for the Cherokee Nation.

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J. D. 3-1

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[Signature]
ACTING

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., May 29, 1901.

In the matter of the application of Daniel Whitmire for the enrollment of himself, his wife, four children, one half brother and one half sister as Cherokee Freedmen.

Daniel Whitmire, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your name? A Daniel Whitmire.
Q How old are you? A I am 44.
Q What is your post office? A Elliott, I. T.
Q In what district do you live? A Co-was-co-wee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A I have a family sir.
Q You have a wife? A I have a wife and some children.
Q How many children? A I have four children of my own and two others I am administrator for.
Q You apply for yourself, your wife, and four children of your own and two you have charge of? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A I have lived there continuously since 1866.
Q All your life? A Yes, sir.
Q Well, were you in the Cherokee Nation at the time the war broke out? A Yes, sir.
Q And then you were out for a while during the war? A Yes, sir, I was.
Q And came back you claim in 1866? A Yes, sir.
Q You have lived in the Cherokee Nation then except a while during the war and a little while thereafter? A Yes, sir.
Q Give me the name of your father? A Dick Whitmire.
Q Is he dead? A Yes, sir.
Q How long has your father been dead? A He died in 1896.
Q Give me the name of your mother? A Betsy Davis.
Q Was this her name before or after she married your father? A Well, I don't know anything about that, I just know her name was Betsy Davis.
Q She died you say when you were very young? A Yes, sir.
Q Give me the name of your wife? A Louisa Whitmire, or Lou.
Q How old is your wife? A She is 47.
Q Is she a Cherokee Freedman of her own right? A Yes, sir.
Q How long has she lived in the Cherokee Nation? A Well sir, I guess she has been here all the time.
Q All her life? A Yes, sir.
Q Give me the name of her father? A I can't do it, I don't know it.
Q Give me the name of her mother? A Malissa Foster.
Q Is your wife's mother living? A Yes, sir.
Q When were you and your wife married? A In '83.
Q Were you ever married except to this wife? A No, sir.
Q Was she ever married except to you? A No, sir.
Q Have you a certificate of your marriage? A No, sir.
Q Is there someone here who knows that you and she are married? A No, sir, I don't know as there is anyone here who knows that we were married.
Q Is there anyone here who knows that you live together as husband and wife? A Oh yes, I think there is.

Josie Looney, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q What is your name? A Josie Looney.
Q How old are you? A 31 years old.
Q What is your post office? A Elliott, I. T.

Daniel Whitmire - 2.

Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know the applicant here? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q What was her name when he married her? A Louisa Foster.
Q About how long have they been married? A I don't know, 16 or 17 years I reckon.
Q Do they live in the same neighborhood with you? A Yes, sir, neighbors.
Q Did you ever hear of either one of them being married before?
A No, sir.
Q Have they lived together as husband and wife ever since they were married? A Yes, sir.

Daniel Whitmire, recalled, testified:

Q Now give me the names of your four own children? A Eva Whitmire.
Q How old is that child? A 17.
Q The next child? A Hattie Malissa, 18.
Q The next child? A Dora Whitmire.
Q How old is she? A 9.
Q The next child? A Charlie Whitmire, born September 12, 1897.
Q Are these children all living now? A Yes, sir.
Q Now you say you have two children that you have charge of?
A Yes, sir.
Q Give me the names of these children? A Charlie Whitmire, 16.
Q The next child? A Emma Whitmire, 15.
Q Are they both living now? A Yes, sir.
Q Give me the name of the father of these children? A Dick Whitmire.
Q Is he dead? A Yes, sir.
Q How long has he been dead? A Died in 1898.
Q Well, give me the name of the mother of these children? A Hannah Whitmire.
Q Is she dead? A Yes, sir.
Q Are these children your half brother and half sister? A Yes, sir.
Q They have a different mother? A Yes, sir.
Q How long has Hannah Whitmire been dead? A I think she had been dead about ten years, I am not positive of that.
Q Well your father and mother parted did they? A Why I can't tell you, sir.
Q Did he afterwards marry this woman Hannah? A Yes, sir, I think he did, my mother died when I was very small.
Q After your mother died your father married this woman Hannah, did he? A Yes, sir.
Q What was her name before she married your father, this woman Hannah? A I don't know sir.
Q Was she a Cherokee Freedman? A Yes, sir, she was a Cherokee Freedman.
Q Did you have a brother named Dick? A Yes, sir, I had a brother named Dick.
Q Is he older or younger than you? A He is older than I am.
The 1880 authenticated roll of Cherokee Freedmen examined and the applicants identified thereon as follows:
Dick Whitmire on page 198, No. 5187, Cooweescoowee district;
Hannah Whitmire on page 198, No. 5188, Cooweescoowee district.
Daniel Whitmire not on 1880 roll;
Louisa Whitmire on page 102, No. 1076, Cooweescoowee district, as Lou Foster.
The 1886 census roll of Cherokee Freedmen examined and the applicants identified thereon as follows:
Daniel Whitmire not on said roll;
Louisa Whitmire on page 427, No. 750, Cooweescoowee district,

Daniel Whitmire - 3.

as Lou Whitmire;

Eva Whitmire on page 427, No. 751, Goo-wee-scoo-wee district;

Hattie M. Whitmire on page 427, No. 752, Goo-wee-scoo-wee district,

as Malissa Whitmire;

Dora Whitmire on page 427, No. 753, Goo-wee-scoo-wee district;

Ella Whitmire on page 427, No. 748, Goo-wee-scoo-wee district;

Charles Whitmire on page 427, No. 749, Goo-wee-scoo-wee district,

as Charley Whitmire.

Q What rolls are you on? A I guess I am on the Wallace roll and the Kerne and Clifton.

Q Did you draw strip money? A Yes, sir.

The Kerne-Clifton Roll examined and the applicant Daniel Whitmire, identified thereon, page 101, No. 2526, Goo-wee-scoo-wee district;

The Wallace roll examined and the applicant Daniel Whitmire identified thereon, page 140, No. 3104, Goo-wee-scoo-wee district.

Q How comes it you are not on the roll of 1880? A I don't know sir, really.

Q You are not on that or on the roll of 1896? A No, sir.

Q Did you apply to be enrolled in 1880? A No, sir, I never saw any census takers in 1880.

Q Why didn't you see them? A Why I don't know really why; I was in the country, I was working on a ranch and I don't suppose they came around there; the fact of the business was I was young and not paying much attention to any enrollment then.

Q Where was your father during the war? A I can't tell you, sir.

Q You don't know whether he went to Kansas or where? A I don't know where he went to.

Q Your mother died when you were an infant? A Yes, sir, quite a small boy.

Q Then who brought you up? A Why my aunt brought me up.

Q What is her name? A Vincy Foreman.

Q Is she dead? A Yes, sir.

Q How long has she been dead? A I guess she has been dead 13 or 15 years or longer; Billy Foreman washer husband.

Q Where were you taken during the war? A I was taken to Kansas.

Q You don't know whether your father went up there? A No, sir, I don't.

Q Do you know anything about who brought you back or when you came back? A Yes, sir.

Q Tell me what you know? A Why Uncle Billy and Aunt Vincy, I always used that word, I came back with them, and Sam and Aaron Whitmire and Sam Webber.

Q They came at the same time? A Yes, sir.

Q Did Sam Webber have a wife? A Yes, sir, I suppose so.

Q What was her name? A I don't remember her name.

Q Where did your mother die? A She died in Kansas.

Q How long before you came back was it she died? A They told me she died during the war.

Q While the war was going on? A Yes, sir.

Q That is all you know about it? A That is all I know about it.

Q You were too young to remember? A Too young to remember.

Q Do you remember your mother at all? A I just barely remember her.

Q Do you know when it was your father married his next wife, Hannah?

A No, sir, I can't tell the year nor anything about that.

Q Do you know where he married her? A Yes, sir.

Q Where? A Married her on Big Creek.

Q Here in the Cherokee Nation? A Yes, sir, in Goo-wee-scoo-wee district.

Q Have you any idea how many years that was after your mother died?

A No, sir, I haven't really.

Daniel Whitmire - 4.

Q You were not living with your father at the time; you were living with your uncle and aunt? A No, sir, I wasn't living with him.

Q You say Sam Whitmire came back with you? A Sam Webber.

Q And what did you say is the name of his wife? A I didn't say, I don't remember her name.

Q Who else was it came with you? A Aaron Whitmire.

Q Did he have a wife at that time? A Yes, sir.

Q Give me her name? A I can't call it just now; I know it well too.

Q Give me the names of any other people that are living now that came back at the time you did? A I don't believe I can.

Q Billy Foreman, your aunt's husband, is he dead? A Yes, sir.

By W.W. Hastings, Cherokee Attorney: (Indicating) This is the Aaron Whitmire you claim you came back with? A Yes, sir.

Q You want to introduce him? A Yes, sir.

Aaron Whitmire, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your name there? A Aaron Whitmire.

Q How old are you? A I am 57.

Q What is your post office? A Goodys Bluff.

Q You applied for enrollment a little while ago didn't you?

A Yes, sir.

Q Do you know the applicant here? A Yes, sir.

Q When did you come back from Kansas after the war? A Came back in 1866.

Q What time in '66? A About December, in December.

Q You were duly identified I believe on the roll of 1880? A Yes, sir.

Q Did this man come with you at that time? A Yes, sir.

Q What kin is this man to you? A His father was a cousin of mine.

Q He was with you in December, 1866, when you came back, was he?

A Yes, sir; this old man Foreman that raised him, he came with me, old man Billy Foreman.

Q Was old man Billy Foreman a Cherokee Freedman? A Yes, sir.

Q Was his wife Vicky Foreman a Cherokee Freedman? A Yes, sir, both belonged to the same man.

Q How comes Vicky Foreman isn't on the roll of 1880; she died only 12 years ago? A I don't know how come she wasn't on the roll of 1880.

Q You are certain this man came with you? A Yes, sir, I am certain he came right along; he was a little child then; old man Foreman took him and raised him when his mother died.

Mr. Hastings: Where did his mother die? A Died in Kansas.

Q Did this man ~~come~~ back to Kansas after you brought him down?

A No, sir, never been back that I ever known of.

Q You have lived a near neighbor to him ever since? A No, sir.

Q You have known of his whereabouts? A I have known whereabouts he was, I haven't been right close to him.

Q You claim you brought him down here in December of '66? A Yes, sir.

Q Who else came with you? A Why I can't tell just who all, there was the Sanders, Dan and Rube.

Q And their father? A Their father.

Q Old man Sam Webber? A Sam Webber.

Q Little Sam? A Yes.

Q Name now everybody that you can think of? A Peter Meigs, old man Peter Meigs.

Q Who else? A There was Mose Whitmire, Lewis and Nelson and Dennis.

Q Did these people come on Big Creek and stop; did they remain there and farm? A Well, they all camped right together, me and his old uncle.

Q Where? A On Big Creek.

Q Near where that settlement is up there? A No, down farther;

Daniel Whitmire - 3.

this old lady that had him was my aunt, and we camped right together when we first came.

Q Were the families of these people brought here when they came in December, all of them families, Sam Webber's?

A Yes, all came at the same time and came right along together, Sam Webber and Bill Foreman, and them other Whitmires.

Q They all brought their families? A I don't know of all brought their families right then, but they did pretty soon afterwards, but this old lady that had this boy was right along.

Q She was along? A Yes, sir.

Q Bill Foreman locate on Big Creek? A He located on Big Creek.

Q About the place that you came to? A Right in the gap of the mountain, it is called, this side of Jim Martin.

Q Had you been down here before that? A No.

Q Had any of these others? A Yes, there was some of them been down.

Q Do you remember who had been? A No, sir, I don't, I didn't see all the crowd that came first.

Q Were there any houses up there on Big Creek when you came?

A Nary a one when I came; well there was one that them folks had put up when they came down before we came.

Q Whose house was that? A It was the house old man Peter Meigs lived in, I don't know who put it up, and I believe old man Webber had the body of a house up.

Commissioner: Has this man Daniel Whitmire lived in the Cherokee Nation ever since you saw him there in 1866? A He has lived in it as far as I know about it ever since I saw him there, ever since he came here.

Q Have you known him along all the time? A I have known him along all the time, saw him every once in a while.

Q You never heard of him moving anywhere else? A No, sir.

Commissioner: The applicant applies for the enrollment of himself, his wife, four children, and for a half brother and a half sister, who are minors and in his charge.

The applicant is identified on the Wallace Roll and the Kerns-Clifton roll, but not upon the roll of 1880 or upon that of 1896. His deceased father is identified on the roll of 1880. His mother died in Kansas before his father's return. It appears that the applicant has lived in the Cherokee Nation all his life, except an absence during and immediately following the war, in the state of Kansas. He is now 44 years of age. The testimony is quite conclusive that his omission to be upon the roll of 1880 was through no fault of his own, he stating that he lived on a ranch at that time, where he saw but few people and did not see or hear of the census takers. It also appears quite conclusively that the applicant was brought back to the Cherokee Nation in December, 1866, testimony to that effect being given by Aaron Whitmire, who himself is upon the roll of 1880, who states that the applicant came back in company with him and with an uncle and aunt who had charge of him at the time. But inasmuch as the applicant is not found upon the roll of 1880 or 1896, he will be present be placed upon a doubtful card for the further consideration of his case.

His wife, Louisa Whitmire, is duly identified on the rolls of 1880 and 1896 as a Cherokee Freedman, she has lived in the Cherokee Nation all her life, her change of name arising from marriage is established in a satisfactory manner, and she will now be listed for enrollment as a Cherokee Freedman. Of their four children, the first three named in the testimony, Eva, Harrie M., and Dora, are duly identified on the roll of 1896, they are living, and they will be listed now for enroll-

Daniel Whitnire - 6.

ment as Cherokee Freedman. When the Commission is supplied with a proper certificate of the birth of the youngest of their children, Charles Whitnire, this child also will be listed for enrollment as a Cherokee Freedman.

As for the half brother and sister in the applicant's charge, Charles and Emma Whitnire, both now living, they are duly identified on the roll of 1896, they are the children of the applicant's deceased father, who, as stated, is identified on the roll of 1880, and of the applicant's deceased stepmother, who is also identified on the roll of 1880, and these two children will now be listed for enrollment as Cherokee Freedmen.

When the final decision of the Commission is rendered in regard to the applicant himself, it will be made known to him at his post office address.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 31st of May, 1901.

W. H. McNeill

Commissioner.

Supl. C. D. #818. Freedmen.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
EDWARD WRIGHT as a Cherokee Freedmen, introduced on part of the
Cherokee Nation.

The Cherokee Nation by its representative makes satisfactory proof of service on E. B. Lawson, the attorney for the applicant in this case, that testimony would be introduced by the

representatives of the Cherokee Nation tending to disprove the right of said applicant, Edward Wright to citizenship in the Cherokee Nation at the offices of the Commission in Muskogee, Indian Territory, on the 3rd day of March, 1902, and from day to day thereafter until the same could be heard by the Commission during the usual business hours.

Cherokee Nation present by its representative, L. B. Bell.

C. V. Rogers, being duly sworn testified as follows on part of the Cherokee Nation.

MR. BELL:

- Q Tell him your name? A C. V. Rogers.
- Q Age? A 63 years old.
- Q Place of residence? A Claremore.
- Q Are you a citizen of the Cherokee Nation? A Yes, sir.
- Q How long have you been such? A All my life, little over 63 years.
- Q Did you go out of the country during the war? A Yes, sir.
- Q When did you return? A '66.
- Q Where did you come to? A Come to Fort Gibson.
- Q And stayed there did you? A Yes, sir.
- Q Well, what was your business? A After I come back?
- Q Yes? A I followed freighting for something over three years.
- Q Where and between what places? A Sedalia and Pleasant Hill and Kansas City to Fort Gibson.
- Q Were you ever acquainted with a Freedmen by the name of Moses Whitmire? A Yes, I know him.
- Q Where did he belong before the war? A He belonged in Going Snake District.
- Q Do you know what particular Whitmire he belonged?
- A I don't remember whether he belonged to George Whitmire or Lee Whitmire.
- Q If you did see him when did you first see Moses Whitmire after the war, after your return to the Cherokee Nation?
- A As well as I can remember it was in February, '68; I met him just on this side of the Neosho River, as they were moving back to this country from Kansas. There was between 24, from 24 to 28 wagons and I met them right on this side of the Neosho river; Dick Whitmire, Moses Whitmire and Aaron Whitmire and old Major Wright is all I knew in the outfit.
- Q Did you have any conversation with them, stop and talk with them?
- A Yes, sir, and Col. Bill Ross passed while I was talking to them going to Fort Scott.
- Q Did you ask them where they was going to? A They said they was moving back.
- Q Well this 25 or more wagons was loaded with people?
- A Yes, mostly every one had household goods in them.
- Q Colony of Cherokee Freedmen? A Yes, sir, coming back to the Cherokee Nation.
- Q Well now that was; where you say it was? A It was right on this side of the Neosho river; between the old Hudson place and Neosho river.
- Q How far from the Neosho river? A I suppose half a mile.

Q How far from the north line of the Cherokee Nation?
A I think the river is the line, about a half mile.
Q And how far is that from the Kansas line? A The Noosho river is the line, say I understand it.
Q You had reference to where the military road crosses the Noosho river? A Yes, sir.
Q At Jack Holain's ferry? A They called it Hudson Ferry at that time.
Q Hudson lived there? A Yes, sir, in about a half mile.
Q And this Moses Whitmire you met and talked with is the same one you knew in Going Snake and belonged to the Whitmire family there?
A Yes, sir.
Q About how long was he when you met him? A He is an older man I think than I am.
Q And you saw others with him you knew? A I think Aaron Whitmire and Moses Whitmire and old Major Wright is the old ones I know.
Q And you talked with him there? A Oh, I guess I talked with him ten or 15, 20 minutes and while I was talking to him Col. Ross passed going to Fort Scott.
Q Do you know where this man Whitmire lives now, Moses Whitmire you met?
A No, I don't know where he lives.

MR. HASTINGS, Cherokee Representative:

Q Don't you know he lives on Salt Creek near Hayden? A No, I don't know for certain I heard he lived on Big Creek. I don't know though where he lives, I have saw him ever since I have been here. I don't think I ever was at his house.

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I hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings had in this case on the above date, and that the foregoing is a true and complete transcript of my stenographic notes thereof.

(Signed) J. O. Rossen.

Stenographer.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 20, 1902.

In the matter of the application Edward Wright for the enrollment of himself as a Cherokee Freedmen.

APPEARANCES:

Ben J. Scoville, representing E. B. Larsen, for applicant.
W. T. Hastings, for Cherokee Nation.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the applicant's attorney that it would, on the 20th day of May, 1902, introduce testimony tending to disprove the right of the said Edward Wright to enrollment as a Cherokee Freedmen. The applicant this day appears by his attorney, E. B. Lawson, who is represented by Ben J. Scoville, Nowata, Indian Territory.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Chambers Commission on Citizenship as found on page 55 of a book taken from the records of the Executive Department of the Cherokee Nation, entitled, "Docket of the Chambers Com'n on Citizenship," as follows:

"No. 85 Edward Wright (Ex. 7th of June.
 vs (Answer filed.
 Cherokee Nation.

Judgment against claimant June 27, 1879."

The Cherokee Nation also offers in evidence from the same record as above, page 57 of the same, the following:

No. 88. Major Wright
vs
Cherokee Nation.
(Ex. June 7th. Statement filed
on 26th of June.
1st July set, 1st Aug.
set for trial.)

Judgment against claimant June 27, 1879."

The Cherokee Nation offers in evidence the application made for citizenship in the Cherokee Nation by Lewis Whitmire on the 29th day of June, 1878, as found on pages 164 and 5 of book 5, entitled, "Citizenship record 1874," as follows:

"before the Commission sitting at Tahlequah to try claims to Cherokee citizenship.

The undersigned claimant in the case of
Lewis Whitmore
VS

respectfully presents the following statement of his claim according to the requirement of the Commission.

Claimant claims under classification five of claimants in the law creating this Commission, that is, as a colored person formerly a slave owned by a citizen and resident of the Nation at the

beginning of the late war, freed by law and made a citizen of this Nation by provision of the treaty of 1866. For

Claimant was at the time and place above said owned by George Whitmire, a Cherokee citizen, left the country during the war and returned in the summer of 1866 to select and prepare a home for his family (they being then without one) and again the following year prosecuting the work as his circumstances and the condition of the country at that time prevented and leaving his family in the intervals of time when they could subsist without discomfort and exposure and until a removal of them was practicable which removal of claimants finally was accomplished to the point of the Nation settled by claimants for theirs and his home in the spring of 1867.

Claimants rights have been called in question by competent authority, and he therefore presents them to the important examination of this Commission as are authorized so to do by law.

This June 26, 1878.

Lewis Whitmire,

By W. P. Boudinot, Atty."

The Cherokee Nation offers the following from the same book and continuing on the same page, the application of Moses Whitmire as follows:

"Before the Honorable Commission sitting at Tahlequah to try rights to Cherokee citizenship.

In case of Moses Whitmire

vs

Cherokee Nation,

claiming Cherokee citizenship.

Claimant claims under the fifth specification of the classes of claimants to citizenship as found in the law creating this Commission, to wit as a colored person formerly a slave owned by one George Whitmire, Cherokee citizen, resident of this Nation, at the beginning of the late war, and freed by law and made a citizen by provision of the treaty of 1866. Claimant respectfully refers to the statement by claimant Lewis Whitmire as embracing the facts which the present claimant would submit to the Commission as the grounds of his claim.

Respectfully submitted,

Moses Whitmire.

June 26, 1878.

By W. P. Boudinot, Atty."

The Cherokee Nation offers in evidence from a book taken from the Executive Department of the Cherokee Nation entitled "Register of evidence before court of Commission Chambers Court, Book A," page 259, case No. 60, as follows:

"Case 60.

Aaron Whitmire,)

vs)

Cherokee Nation.)

Tahlequah,

July 3, 1878.

Like Field a witness for claimant called and sworn.

I am I think I am about 47 years old. I live in Illinois District, C. N. Am a citizen of the Nation. I have been on the doubtful roll but had my rights proven up before the Supreme Court.

As a citizen under the treaty of 1866. I went north to the state of Kansas in '68. I returned in August - 21st or 22nd, 1868. I left my family in Fort Scott when I came. I came down to get me a claim. I staid about three weeks that time, and then returned to Fort Scott. After I returned to Fort Scott there were others who started down, the Whitmires were of that number. The claimant was one of them. They came down in Decr. 1866. They returned to Fort Scott before I left there. I left Kansas about the 2nd week in January, 1867 and got to the crossing of the Neosho river about the last of January. When I first come down there was about 15 in the party. They left their families in Kansas when they came down here. There was some of party come with the Whitmires who piloted the Whitmire party and my party were Sam Webber, Mike Daniels, Sam Webber, Jr., Aaron Webber, Reubin Sanders, Tuck Sanders.

The Whitmire proper were Aaron, Lewis, Mose, Dennis and Nelson Whitmire and others that I do not recollect. The object of this party coming was for the purpose of erecting homes. When I moved with my family I stopped on Pryors Creek at Mrs. Alberty's and remained about two weeks. The reason we left that part of the country was because that part of the country was too sparsely settled and bare of subsistence. As I was coming down the first time we were overtaken by the Cherokee Delegation. They were some who come here were authorized by others to locate claims for them, one was by McKey requesting Abe Fields to locate for him. The original request filed.

Cross Examined.

I can not remember the date I arrived here the first time from Kansas. The claim we made I got three sets of house logs, hauled them and piled them up, and some of the men put up houses, I did not put up a house. I started back to Kansas about the middle of September. When I first left the country it was in February, 1868. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Bushy Mountain on this side of Arks. River. When the Whitmires returned to Fort Scott I do not know when they left there to come to this country as I left there when I left. It was reported when they returned to the Nation that the Whitmire party had built houses. But I do not know this myself as I was not along. I only heard they had. The war closed in 1865 I think. I did not know it myself but people told me who could read.

I do not know myself that it was the month of Aug. When I come here first, but I was told it was that time.

Re Direct.

It was the December following the time I first came down that the Whitmires come down first to select and improve claims.

Nick x Fields.

his mk.

Aaron Whitmire)

vs)

Cherokee Nation.)

called and sworn.)

August 1, 1878.

Bluford Alberty, witness for claimant,

I reside in Cooweescoowee District, C. N. I am a native Cherokee citizen. I left the Nation during the war. I returned to the Nation on the west side of Grand River, Cooweescoowee District

on the 3rd of Sept. 1866. I had occasion some time in the last of October or the first of Nov. or probably it might have been as late as the middle of November, to go to the Verdigris. While out there I fell in with a party of seven or eight persons who were camped with others near Sam Crouches. I did not go to the camp. They were colored people. I knew most all of them. Their names were old Sam Webber Aaron Whitmire and a younger brother and Lewis Whitmire.

There was another person whom I was told was a Landrum. I do not recollect any of the others and cannot identify them. The Whitmires were Johnson and George Whitmire, Aaron Lewis and his mother belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim McDaniel had got home. I told him I had not seen the treaty but had heard rumors about it. He told me they had come to pick themselves homes or make claims and that he was the leader of the company and the reason why Major Wright did not come was that he was an old man, but that he had sent his son down to work for him and make him a claim. He then asked what chance there was to get provisions over on the river. I told him there was none there, but that there was a lot of condemned flour at Gibson and if they would go there they would get some. He also represented that they had come down to make claims for others, who had remained in Kansas, to build their houses &c. They also stated that they were notified to come, and that they had accordingly come to make claims for themselves and the other that they left behind in Kansas. As near as I can recollect it was some time in October or November that I saw these parties. It was not very cold weather at the time. I recollect as I camped out at night. Did not see any of these parties after this time May 1867. There was no provisions to be had in this country at that time. Provisions were very scarce. It was my understanding that they had come to prepare homes for themselves and families. They told me so at least. Major Wright belonged to Cornelius Wright before the war.

Cross Examined.

I heard after this some of them went back to Kansas. At the time I met them I do not know whether their families were with them. I think I saw Dennis Whitmire with this party, but am not certain of seeing Dennis or Nelson. I know there was four of the Whitmire boys. They were owned in the Nation and resided here up to the breaking out of the war.

B. V. Alberty.

Aaron Whitmire
vs
Cherokee Nation.

I know Melissa Ratliff. She was twelve or thirteen years old at the close of the war.

She was living with me then and still lives in my family. Mack Landrum was one of the band above referred to, also Panson Daniels. I learned from our leaders Uncle Mike and Sam Webber that the Cherokee delegates advised us to settle in a compact body on unoccupied lands. We crossed the Neosho in coming down at McLane's Ferry in 1865. The chief ferryman who crossed us was Bill Martin.

While on Lightning Creek in 1866 I saw Mr. Alberty but had no conversation with him, but Sam Webber had in my presence.

Cross Examined.

I am a claimant before this court for citizenship. I am a half-brother of Aaron Whitmire, Louis, Dennis and Nelson are also my brothers. Mariah Whitmire is my sister. Major Wright is my stepfather. The names of the party that came with me to the Nation are as follows: Mike Sanders, Sam Webber, Peter Heigs, Bill, Foreman, Tuck Sanders, Ransom Daniels, Sam Webber, Jr., Louis Whitmire, Nelson Whitmire, Dennis Whitmire, Aaron Whitmire, is all I can recollect now. Witness and my brothers were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright. I can't name any any others. Witness was a man of family in 1866 when we came from Kansas. My family was at Fort Scott. Melissa Ratliff, Ed Wright, and my wife and myself composed my family. Louis had no family. Aaron and Nelson did. Major, Nan, Nelson and Allen were Aaron's children and his wife, Sarah. They were left, the wife and children in Fort Scott when we came in 1866. Eliza Sanders, Thos. Sanders were Nelson's family and back at Fort Scott. We went back 1st January 1866 to Kansas after coming to the Nation. When witness returned in 1867 to the Nation Aaron, Louis, Nelson, Dennis, Ransom Daniels, Tuck Sanders, Peter Heigs and the families of those who had families all come as I did besides other not particularly remembered. This was the first time any of our families had been to the Nation, at least mine, Aaron's and Nelson's.

The first time Mariah Whitmire was in the Nation after the war closed was after our parties returned in families in 1867.

The first time Major Wright returned was on our first trip in 1867. Melissa Ratliff was owned by one Alec Ratliff at breaking out of war. She first came in March 1867. Jack Landrum was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Albert as a witness in this case.

Re Direct.

Mariah's family at the close of the war was a separate family. Harry, Whitmire, her son, represented his mother on the first trip in 1866. Witness is about 53 yrs. old. Major Wright was an old man at the close of the war. Louis Whitmire had been back to the Nation before 1866.

Attest

D. L. Nicholson,
Clerk.

his
Dose Whitmire.
mark.

Case 63.

Aaron Whitmire & family
vs
Cherokee Nation.

)
) Claiming citizenship.
)

Now comes claimant by Atty before the Commission sitting at Tahlequah to try certain claims for citizenship in the Cherokee Nation and makes this his statement of his grounds for said claim to wit-

Claimant is a colored person and claims as aforesaid under privilege of the fifth specification of the classes of claims preferred by law to the Commission to examine and decide rights by competent authority having been denied citizens.

Claimant belonged to Geo. Whitmire a Cherokee citizen at the commencement of the war of the rebellion and was then living in this

Nation. After the beginning of said war claimant moved to or the vicinity of Fort Scott with his family at which location he resided until the summer of 1866 when he returned to this Nation and proceeded to select and improve a home on the Verdigris River for himself and family's permanent residence.

While he was thus making preparations for the removal of his family by providing for their habitation and subsistence at the place mentioned they his family remained where they had been sojourning during the war.

Claimant was compelled by unfavorable circumstances and the attention he was obliged to bestow upon his family to remit his work upon his improvement on Verdigris River from the early fall of 1866 to the early winter of the same year, when he resumed labor upon his improvement, after which he removed his family as soon as practicable to wit in the spring of the year of 1867.

Claimant claims to have returned to this Nation in his own person and as representative of his family within the time provided for by treaty, in that having no residence to come to as other former citizens he did everything possible to constitute a return consistent with the duty he owed to his family by laboring as far as his means allowed to provide a home in this Nation.

Respectfully submitted,

Aaron Whitmire,
By Atty Wm. P. Boudinot.

Aaron Whitmire
vs
Cherokee Nation.

August 1st, 1878.

Wm. Martin, witness for claimant, called and sworn.

I live on Big Creek, Coowessocowee, C. N. Am a citizen of the Nation. From August up to Christmas 1866 I was at the ferry on the Neosho River on the old Military road leading from Fort Scott, Kansas to Fort Gibson, C. N. Am acquainted with claimant and his brother, Lewis, never knew Aaron until I meet him at the river. Lewis I knew prior to that time. While I was in charge of the ferry I recollect having met claimant and Mose, Lewis, Dennis and Nelson, Whitmire, Peter Reigs, Mike Sanders, Sam Webber, and Young Sam, Bill Foreman and others but I do not recollect anything about them. They were traveling. They stated they were coming from Fort Scott, Kans, they were traveling from the direction of Fort Scott. I crossed them from the Shawnee side of the River into the Cherokee Nation, they inquired the road to Big Creek. McLean gave them the directions to the head of Big Creek. They stated the reason why they were coming was that the Cherokee Delegation had invited them to come back under the treaty. They mentioned Jim McDonald as the principal one who had invited them and they were then on their way to select themselves homes.

It was after the Delegation returned that I met claimant and the others spoken of it was pretty cold weather when I crossed them. It was as near as I can recollect about the last of October, 1866. I am positive it was before Christmas at I left them at Christmas or probably a few days before Christmas.

Cross Examined.

I was not acquainted with the claimant nor any of the others named previous to the war.

I do not know who owned before the war. I do not know whether they had lived in the Nation previous to the war. I do not recollect of seeing any of the families of the parties named at the time.

I crossed them over the river. I set some of this same party back over the river a short time after they had come in, Lewis, Nelson and Dennis Whitmire and little Sam Webber and I think they were some who crossed back but I can not place them now. I learned the names of the parties from conversation with them, but did not become particularly acquainted with their names at that time. I think there was one woman with the party, I think she was little Sam Webber though I would not be right positive that there was a woman along or not. I was positive there was no children as I never seen any. They had camped there long enough that were they any women and children I would have known it. The next time I saw claimant was in the fall of 1867 on Big Creek. I learned from them then they had got there in March 1867. I know this from having heard it generally talked amongst themselves.

Re Direct.

At the present time the distance between our two settlements is about 5 miles. I recognize the claimant and the other parties spoken of. I have been there frequently since that time, I set them over the river. When I saw them in the fall of 1867 they had their families with them then. The means of subsistence at the time I crossed in the country at that time was short.

William Martin.

Aaron Whitmire)
Vs)
Cherokee Nation.)

July 4th 1870.

Wm. McCracken for Claimant.

Witness met claimant near Fort Gibson in Novr. or Decr. 1866. Met him at the ferryboat on Grand River.

Witness had a conversation with claimant at the ferry in which claimant said he was on his way to Going Snake his former home in the Nation and seven of claimant's brothers were behind on the road.

Witness is a citizen of this Nation and knew claimant before the war.

Attest:

Wm. McCracken.

D. L. Nicholson, Clerk.

Aaron Whitmire
vs
Cherokee Nation.

Bluford Alberty.

George Whitmire before the war lived in Going Snake Dist. This Dist. borders on the line of the state of Arks.

Claimant now resides near the western line of the Cherokee Nation. The settlement before the war was sparse where claimant now resides. I would say the distance from where George Whitmire resided prior to the war, and claimant's present residence is 90 or 100 miles. Witness states that he had a conversation with Sam Webber in which Webber assigned as a reason for settling where he had was that Agent Jones advised the colored people after their freedom to settle in colonies or as thickly as it was convenient to do in an unoccupied part of the country.

This was thought best for the colored man as they could have their own schools &c until matters were more regulated in the country.

The first conversation was in the fall of 1866. The second conversation was in the spring of 1867. I saw several of their families in May, 1867 on Big Creek or Lightning Creek in the Nation.

The home of claimant is in the same locality as that at the time mentioned above. In Dec. or Nov. 1866 I gave claimant and other colored men permission to occupy two old fields in that neighborhood for the purpose of raising crops the year following. Louis Whitwire in the name of the other man, I also permitted to go on the old field. The Spring of 1867 I saw Aaron and Louis Whitwire at work on the two fields spoken of. This settlement of colored folks has the character of quiet industrious and law-abiding citizens as much as any in the Nation. Some of these people have large and good farms all made by themselves since the war.

Witness with a party of six gentlemen in the fall of 1866 saw this colored party who settled on Big Creek afterwards in the neighborhood for the purpose as they said at the time of selecting their homes. Several claims was then in sight of witnesses which the colored party said they had selected and are now the homes of the party above indicated.

Agent Jones was at the time advising said Col party. A Delegation for the Cherokee Nation at Washington. There were parties as witness learned from one of them who wished to expel or drive off from their claims this colored party at the time they were prospecting the country. This was advised against by witness and it was not done or carried out. Witness' party spoken of above was composed of Cherokee citizens except one colored man. I am the sole survivor of this party except the colored man and possibly one other. Occupation of witness is herding wild cattle. I travelled a good deal in that neighborhood at that time spoken of.

"Continued on Page 233."

Aaron Whitwire et al vs July 26th 1878.

Cherokee Nation. John Riley.

Witness as witness for Deft. I live in Coopers Cove near Bigt. I first moved there in 1852 and have continued to reside there except in time of war. I came back in the month of August 1866 to the Nation. I knew Aaron Whitwire. He returned or came to the Verdigris River to live in the month of March 1867. Also came at the same time Pat & Heige, Mike Sanders, Sam Webber, Billy Foreman, with their families and others whom I don't recollect. Claimant made a crop that spring in 1867 on an old place of Aaron Whitwire. He had settled no other place before that.

Cross Examined.

I don't know of any colored heads of families coming in to the Nation in the month of Decr. 1866 to locate homes but I know of some who came in Sept. '66 for that purpose. I knew where Aaron Whitwire lived at this time. I was near Goody's Bluff in Decr. '66. I live on the west side of the river. Claimant lives and settled on the east side of the river. If any heads of families came in Decr. 1866 I never heard of them. I never knew of Whitford Abbott being in the part of the country in 1866 in the party who came down in Sept. 1866. Aaron Whitwire was not along but Mike Sanders, Sam Webber, Gilbert & perhaps Billy Foreman. Moses was not along. Dennis was not along as I know of nor Mariah nor Major Wright nor Nelson Whitwire that I know of. If any such party had come down in Decr. 1866 I think certainly I would have known it.

Joseph Riley.
Randolph Riley.

(Page 233)

NOT FOR PUBLICATION
BUT AVAILABLE COPY

About the middle of May 1867 I first saw this party with their families at their new homes. Claimant and others of this colored party told witness that they returned in March 1867 to the Nation.

Re Direct

I learned from John Coker that most of this colored party returned to Kansas after their families and a few remained. I was at General Convention of the Colored People in 1866. It was witness' understanding that the purpose of said convention was to ratify the treaty of 1866. I think the object of the convention was to ratify amendments to the Constitution under the treaty and to ratify the treaty. The treaty was concluded the 9th of Aug. 1866 in my information. It might have been July 10, 1866.

Witness went south during the war. J. B. Jones was not at the time herein mentioned U. S. Agent but was a Delegate and was Agent afterwards.

B. V. Alberty.

Attest

D. L. Nicholson,
Clerk.

Aaron Whitfire
vs
Cherokee Nation.

Tahlequah May 16, 1878.

This day comes John F. Lyons Atty for Cherokee Nation and denies all and singular the allegations of claimant contained in the above named case.

John F. Lyons,
Atty for C. N.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 2nd day of June, 1902.

(SEAL)

(Signed) P. G. Deuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Subscribed and sworn to before me this 15th day of Aug., 1902.

Prince C. Jones
Notary Public.

BEST ORIGINAL -
BEST AVAILABLE COPY

710434

12/11/41

12/11/41

RECEIVED THE BUREAU OF PRICES FOR THE YEAR 1941

OFFICE OF THE COMMISSIONER OF PRICES

RECEIVED THE BUREAU OF PRICES FOR THE YEAR 1941

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RECEIVED THE BUREAU OF PRICES FOR THE YEAR 1941

F. D-454.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 28, 1902.

In the matter of the application of Daniel Whitmire for the enrollment of himself as a Cherokee Freedman.

SUPPLEMENTAL NO D-454.

Applicant present in person.
Cherokee Nation appears by W. W. Hastings.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the said Daniel Whitmire that it would on the 28th day of May, 1902, at the office of the Commission to the Five Civilized Tribes at Muskogee, Indian Territory, introduce testimony tending to disprove his right to be enrolled as a Cherokee freedman. The applicant this day, to wit the 28th day of May, 1902, appears in person.

MR. HASTINGS: The Cherokee Nation asks that all of the testimony introduced by the Cherokee Nation in the case of Freedman D-818 be introduced and made a part of the record in this case.

COMMISSION: The request of the Nation will be complied with and the testimony filed.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 7th day of July, 1902.

1 Seal

[Signature]
Notary Public.

W.F.M.

Cherokee Freedmen D-434.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Daniel Whitmire as a Cherokee Freedman.

D E C I S I O N .

The record in this case shows that on May 29, 1901, Daniel Whitmire appeared before the Commission at Chelsea, Indian Territory, and made personal application for the enrollment, among others, of himself, as a Cherokee Freedman; the other parties to the application are differently classified and are not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, March 4, and May 26, 1902.

July 1, 1903, this Commission rendered a decision herein, denying the right of applicant to enrollment. July 10, 1903, record of proceedings had in the matter of said application were forwarded to the Department, and on April 26, 1904, Departmental letter, (I.T.D. 2294-04), remanded said case for "Readjudication."

The evidence shows that the applicant, Daniel Whitmire, was the slave of a Cherokee citizen at the commencement of the war of the Rebellion; that during said Rebellion he left the Cherokee Nation, afterward returning thereto with Peter Weigs and Sam Webber and their families. The Commission has found in the case of Elizabeth Weigs, Cherokee Freedman D-391, that though Peter Weigs, together with Sam Webber and others, returned to said Nation prior to February 11, 1867, they did not bring their families with them until a subsequent trip, made the latter part of February or the first of March, 1867. Therefore, the said Daniel Whitmire, who came with the above mentioned families, did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation.

--2--

The applicant, Daniel Whitmire, is not identified on the authenticated Tribal roll of 1880.

It is, therefore, the opinion of this Commission that the application for the enrollment of Daniel Whitmire as a Cherokee Freedman should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1896, (30 Stats., 495), and it is so ordered.

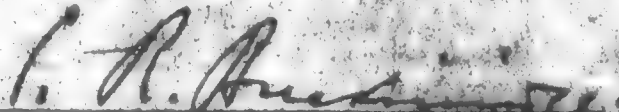
COMMISSION TO THE FIVE CIVILIZED TRIBES.



Chairman.



Commissioner.



Commissioner.

Muskogee, Indian Territory,

this NDV 5 1904

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Daniel Whitmire for enrollment as a Cherokee Freedman. *Bl*




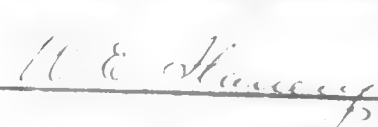
DECISION.

The record in this case shows that on May 29, 1901, Daniel Whitmire appeared before the Commission at Chelsea, Indian Territory, and made personal application for enrollment, among others, of himself as a Cherokee Freedman. The other parties to the application are differently classified and are not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, March 4, and May 26, 1902.

The evidence shows that the applicant, Daniel Whitmire, was the slave of a Cherokee citizen at the commencement of the rebellion; that during said rebellion he left the Cherokee Nation, afterward returning thereto with Peter Meigs and Sam Webber and their families and claims that said return was in the fall of 1866; but the Commission has found, in the case of Elizabeth Meigs, Cherokee Freedmen D 391, that, though Peter Meigs, together with Sam Webber and others, returned to said Nation prior to January 19, 1867, they did not bring their families with them until a subsequent trip made in February or March of 1867. Hence, it appears that the said Daniel Whitmire, who came with said families, did not return to the Cherokee Nation within six months after July 19, 1866, and his name is not found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the application for the enrollment of Daniel Whitmire, as a Cherokee Freedman, should be denied under the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


Chairman.

Commissioner.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this JUL 1 - 1902

United States of America,

Indian Territory,

Northern District. SS

Nelson Lowrey of lawful age being first duly sworn on oath deposes and says that on the 21st day of May A. D. 1902 he mailed a registered letter to Daniel Whitmore at Ellis I. T. and that inclosed in said registered envelope was a notice, a true copy of which is hereto attached and he attaches hereto the registry receipt from the post Master at Muskogee I. T. and also he receipt on the 26th day of May A. D. 1902 the registry return receipt sign by the said Daniel Whitmore showing that the notice was duly received; which said Registry return receipt is hereto attached.

Nelson Lowrey

Subscribed and sworn to before me this 26th day of May 1902.

J. C. Starr
Notary Public.

3rd Term.

My Commission expires May 22nd 1904.

F. D. 434

INDIAN TERRITORY,

CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the

day of A. D. 190...

Given under my hand this

day of A. D. 190...

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

day of Feb., 1902.

Messitt & Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190...

Subscribed and sworn to before me
this

Notary Public.

RECEIVED
SECTION TO THE FIVE CIVILIZED TRIBES,
FILED
FEB 8 1902

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Daniel Whitman
for enrollment as Cherokee Freedmen:

Case No. F. D. 434

To Daniel Whitman, or Mallett & Smith, attorneys

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Mustoge, Ala. Indian Territory, on February 3rd 1902 or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this January 28th 1902

L. B. Bell
Jess. Davenport
W. W. Hastings

Attorneys for the Cherokee Nation.

NO. 4 D 434

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT, } ss.

I do solemnly swear that I delivered a true copy
of the within notice to

on the _____ day of _____, A. D. 190

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
Subscribed and sworn to before me this _____

MAY 26 1902

Notary Public.

I, the undersigned attorney for the within named
applicant, hereby accept service of the within notice
on this the _____ day of _____, 190

Attorney for Applicant.

I, the undersigned agent for the within named
applicant, hereby accept service of the within notice
on this the _____ day of _____, 190

Agent for Applicant.

MAY 21 - REG.

NOTICE.

In the Matter of the application of Daniel Whitmire,
for enrollment as Cherokee citizens:

To Daniel Whitmire, Elliott, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes, Cherokee Enrollment Division, in the town of Muskogee, Indian Territory, on May 26th, A. D. 1902, at 8 o'clock a. m., or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands at Muskogee, Indian Territory, this MAY 20 1902

No. F. D. 434.

W. W. Hastings
L. B. Bell
Attorneys for the Cherokee Nation.

COPY

Cherokee F.D-434

Muskogee, Indian Territory, July 10, 1903.

Daniel Whitmire,

Elliott, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated July 1, 1903, rejecting your application for the enrollment of yourself as a Cherokee freedman. There has this day been forwarded your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. D-43

Register.

COPY.

Cherokee F.D-434

Muskogee, Indian Territory, July 10, 1903.

Edgar Smith,

Attorney for Daniel Whitmire,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated July 1, 1903, rejecting the application of Daniel Whitmire for the enrollment of himself as a Cherokee freedman. There is also enclosed a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. E. Hodges

Commissioner in Charge.

Enc. D-44

Register.

COPY.

Cherokee F.D-434

Muskogee, Indian Territory, July 10, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated July 1, 1903, rejecting the application of Daniel Whitmire for the enrollment of himself as a Cherokee freedman.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Enc. D-45

COPY

Cherokee F.D-434

Muskogee, Indian Territory, July 10, 1903.

The Honorable

the Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application of Daniel Whitmire for the enrollment of himself as a Cherokee freedman, including the Commission's decision dated July 1, 1903, rejecting said application.

Respectfully,

T. B. Needles,
Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Enc. D-46

Copy

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington, March 15, 1904.

Land
43336-1904.

(C O P Y)

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a report from the Commission to The Five Civilized Tribes, dated July 10, 1903, forwarding the record relative to the application of Daniel Whitmire, as a Cherokee freedman. The record in this case shows that Daniel Whitmire was the slave of a Cherokee citizen at the commencement of the war; that he left the Cherokee Nation and afterward returned with Peter Meggs and Sam Weber and their families, but it does not appear that he returned within the time limit fixed by the treaty of 1866, and the approval of the Commission's decision of July 10, 1903, adverse to him, is recommended.

Very respectfully,

A. C. Tenner.

Acting Commissioner.

G.A.W.-J.C.

D.C.-13484-1904

Copy

DEPARTMENT OF THE INTERIOR,

FHE

Washington, April 26, 1904.

I.T.D. 2294-1904.

LRS.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

July 1, 1903, you rejected the application of Daniel Whitmire for enrollment as a Cherokee Freedman. You stated that the applicant claimed to have returned to the Nation in 1866, with Peter Meggs and Samuel Weber, but that you had found, in the case of Elizabeth Meggs (Cherokee Freedman D-391), that though Peter Meggs, together with Sam Weber and others returned to the Nation prior to January 19, 1867, they did not bring their families with them until a subsequent trip made in February or March, 1867.

As you have been advised that you are in error as to the period of six months provided in the treaty of 1866; that the six months period did not expire until February 11, 1867, and as the Department has been verbally informed by the Indian Office that the papers in the case of Elizabeth Meggs have been returned to you upon your request, the papers in the case of Daniel Whitmire are returned herewith for readjudication.

A copy of the Acting Commissioner of Indian Affairs' letter of March 15, 1904, submitting the case, in which it is recommended that your decision be concurred in, is inclosed.

Respectfully,

2 inclosures.

Signed Thos Ryan,
 Acting Secretary.

COPY.

Cherokee Freedmen

D-434.

Muskogee, Indian Territory, November 5, 1904.

Daniel Whitmire,

Elliott, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting your application for enrollment as a Cherokee Freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

(SIGNED) *Tams Bixby.*
Chairman.

Encl. B-7.
Register.

COPY.

Cherokee Freedmen

D-434.

Muskogee, Indian Territory, November 5, 1904.

Daniel Whitmire,

Elliott, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting your application for enrollment as a Cherokee Freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Encl. 2-7.
Register.

SIGNED

Tamé Bixby.
Chairman.

COPY.

Cherokee Freedmen

D-434

Muskogee, Indian Territory, November 5, 1904.

Edgar Smith,

Attorney for Daniel Whitmire,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application for the enrollment of Daniel Whitmire as a Cherokee Freedman. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

SIGNED... *Tame Bixby.*
Chairman.

Encl. 3-8.
Register.

COPY.

Cherokee Freedmen

D-434

Muskogee, Indian Territory, November 5, 1904.

Edgar Smith,

Attorney for Daniel Whitmire,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application for the enrollment of Daniel Whitmire as a Cherokee Freedman. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

SIGNED: *Tams Bixby.*
Chairman.

Encl. S-8.
Register.

COPY.

Cherokee Freedmen

D-434.

Muskogee, Indian Territory, November 5, 1904.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application for the enrollment of Daniel Whitmire as a Cherokee Freedman.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

SIGNED.

Tams Bixby.
Chairman.

Encl. 8-9.

COPY.

Cherokee Freedmen

D-434.

Muskegee, Indian Territory, November 5, 1904.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application for the enrollment of Daniel Whitmire as a Cherokee Freedman.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Encl. 8-9.

(SIGNED) *Tams Bixby.*
Chairman.

COPY.

Cherokee Freedman
D-434.

Muskegee, Indian Territory, November 3, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith inclosed the record of proceedings had in the matter of the application for the enrollment of Daniel Whitmire as a Cherokee Freedman, together with the Commission's decision dated November 5, 1904, rejecting said application.

Respectfully,

(SIGNED). *Tams Bixby.*
Chairman.

Encl. S-10 -

Through the

Commissioner of Indian Affairs.

Cherokee F.
D. 434.

COPY.

Muskogee, Indian Territory, July 5, 1906.

Daniel Whitmire,

Wann, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, June 25, 1906, and that the motion filed by your attorneys September 7, 1905 for review of said case, is denied.

Respectfully,

~~CHIEF~~

Tama Bixby.
Commissioner.

LMC

Cherokee F.
D. 434.

COPY.

Muskogee, Indian Territory, July 5, 1906.

Blum & Bulger,

Attorneys for Daniel Whitmire,
Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application of Daniel Whitmire for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, June 25, 1906, and that the motion filed by you September 7, 1905 for review of said case, is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED:

Tams Bixby.
Commissioner.

Incl.C-43
LMC

Cherokee T.
D. 434.

COPY.

Muskogee, Indian Territory, July 5, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, rejecting the application of Daniel Whitmire for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, June 25, 1906, and that the motion filed September 7, 1905 for review of said case, is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED):

Tams Bixby.
Commissioner.

Incl. C-44
LMC

Land.
78900-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
WASHINGTON.

June 22, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated November 5, 1904, transmitting the record of the application for enrollment as a Cherokee Freedman by Daniel Whitmire.

November 5, 1904, the Commission decided adversely to the applicant.

The record shows that on July 1, 1903, the Commission rendered a decision adverse to the applicant; that on April 26, 1904, the Department remanded the case for readjudication.

The evidence shows that Daniel Whitmire was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that during the war he left the Cherokee Nation and did not return thereto on or before February 11, 1867. He is not identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision of November 5, 1904, adverse to the applicant is recommended.

Very respectfully,

C. E. Larrabee

Acting Commissioner

W. H. H. (W)

J. F. Tr

DEPARTMENT OF THE INTERIOR, ILB
WASHINGTON.

D.C. 27024
I.T.D. 7700-1905.

LRS

June 25, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

November 5, 1904, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application for the enrollment of Daniel Whitmire as a Cherokee freedman.

Reporting June 22, 1905, the Indian Office recommended that the decision of the Commission, adverse to the applicant, be approved. A copy of its letter is inclosed.

September 7, 1905, the attorneys for the applicant filed a motion for review of the Commission's decision.

There appears to be no proper reason for granting said motion, and it is hereby denied.

The Department concurs in the recommendation made, and the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, is hereby affirmed.

Respectfully,

Jesse E. Wilson

Assistant Secretary.

1 inclosure.

Cherokee Freedmen
D 434

Muskogee, Indian Territory, August 9, 1906

Daniel Whitmire,

Wann, Indian Territory .

Dear Sir:

This office is in receipt of your letter of July 30, asking to be advised if you can secure a rehearing in your case, stating that you have witnesses to prove that you were in the Cherokee Nation in 1866 .

In reply you are advised the records of this office show that your application for enrollment as a Cherokee freedman was denied by the Secretary of the Interior on June 25, 1906.

The Act of Congress approved April 25, 1906 (Public No. 129), in part provides as follows:

"..and no motion to reopen or reconsider any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this Act, in which cases such motion shall be made within sixty days after the passage of this Act:"

Daniel Whitnire--2

. In accordance with the provisions of the above law you are at liberty at any time prior to August 24, 1906, to file with this office a motion to reopen your case. If you have newly discovered evidence that is material to your case, and which was not available when your case was heard before the Commission, you may file with this office a motion for a rehearing of your case, setting out therein fully the facts which you expect to prove in the event a rehearing is ordered, and why the evidence sought to be introduced could not, with due diligence, be secured at the time your case was heard before the Commission. The motion should be supported by affidavits of the persons whose testimony you desire to introduce, indicating fully in the affidavits the facts to which they will testify.

You will be required to serve on the attorney for the Cherokee Nation, copies of all papers filed, and make proof of such service. Upon receipt of such a motion the same will be forwarded, with recommendation, to the Secretary of the Interior for his consideration and action thereon.

Respectfully,

L M B

Commissioner

Cherokee Freedman
D 434.

Muskogee, Indian Territory, August 25, 1906.

Daniel Whitmire,

Wann, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your motion
to reopen and reconsider the application for your enrollment
as a Cherokee freedman.

Respectfully,

M.A.

Acting Commissioner.

Cherokee Freedman
D 434.

Muskogee, Indian Territory, August 25, 1906.

E. B. Lawson,

Nowata, Indian Territory.

Dear Sir:

This office is in receipt of your letter of August 20, 1906, enclosing a motion to reopen and reconsider the application for the enrollment of Daniel Whitmire as a Cherokee freedman.

Respectfully,

M.A.

Acting Commissioner.

Cherokee freedmen
D-434.

Muskogee, Indian Territory, November 17, 1906.

W. W. Wright,
Washington Loan & Trust Building,
Washington, D. C.

Dear Sir:-

This office is in receipt of your letter of November 8, 1906, stating that you represent Daniel Whitmire, an applicant for enrollment as a Cherokee freedman, and requesting that you be advised the status of the case and of any further action taken in connection therewith.

In reply you are advised the application of Daniel Whitmire, son of Dick Whitmire and Betsy Davis, for enrollment as a Cherokee freedman was denied by the Secretary of the Interior, June 25, 1906, and that a motion for a rehearing of said case, filed August 21, 1906, is pending.

Upon receipt of the enclosed notice of your employment properly signed by the applicant, you will be entered as attorney of record in the case, and advised of any further action taken therein.

Respectfully,

Encl.H-11.

JH.

Commissioner.

Muskogee, Indian Territory, November 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion filed by applicant August 21, 1906, for a rehearing in the Cherokee freedman case of Daniel Whitmire, together with a reply by the Attorney for the Cherokee Nation filed October 2, 1906.

July 1, 1903, the Commission of the Five Civilized Tribes rejected the application of Daniel Whitmire for enrollment as a Cherokee freedman; April 26, 1904 (I.T.D. 2294-1904) the Department remanded the case to the Commission for rejudication; November 5, 1904, the Commission again rejected the application, and its action was affirmed by the Department June 26, 1906 (I.T.D. 7700-1906).

The motion is based upon the ground of newly discovered evidence, and is supported by the affidavits of Duak and Katie Vann, who merely allege that they saw the applicant in the Cherokee Nation in 1866, and that he returned with William Foreman and family. William Foreman returned to the Cherokee Nation after the war of the rebellion with the Webber-

Secretary of the Interior -- 2.

Whitmire-Sanders colony, and the records in the numerous Cherokee freedmen cases show conclusively that the families of the persons who came in that colony were not brought to the Cherokee Nation until subsequent to February 11, 1867.

There appears to be no merit to the motion, and it is respectfully recommended that the same be denied.

Respectfully,

Commissioner.

Through the
Commissioner of Indian Affairs.
Encl. W-1.
S.W.

Cherokee Freedmen
D 434

Muskogee, Indian Territory , December 5, 1906

W. W. Wright,
Washington Loan & Trust Building,
Washington, D. C.

Dear sir:

Receipt is acknowledged of your letter of
November 26, enclosing a statement signed by Daniel
Whitmire authorizing you to act as attorney for himself
and those he represents , in their Cherokee freedmen case,
and revoking any authority heretofore given any other
attorney.

You have been entered as attorney of record in
this case. ★

Respectfully,

Acting Commissioner

COPY

Refer in reply to the following:

Land:
53918-1906
103303-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

December 8, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of June 25, 1906 (I.T.D. 7700-1906), affirming the decision of the Commission to the Five Civilized Tribes, rejecting the application of Daniel Whitmire for enrollment as a Cherokee freedman, I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated November 22, 1906, enclosing a motion for a rehearing filed by the applicant August 21, 1906.

The motion is based on the ground of newly discovered evidence, which the applicant alleges was not available when the case was heard before the Commission. There is filed with the petition the affidavits of Dunk Vann and Katie Vann; also the reply of the Cherokee Nation.

The attorney for the Cherokee Nation points out the fact that both the parties who filed affidavits in support of the motion lived within a few miles of the applicant; that the case was originally tried in 1901, and that the applicant was therefore

had five years in which to get the testimony of these parties if it is material to his cause, and has failed to do so.

The showing made on the ground of newly discovered evidence does not show that due diligence has been exercised heretofore, and it is not at all probable that if a new hearing were ordered in this case the ultimate result would be different from what has already been attained.

The Commissioner to the Five Civilized Tribes says that the motion has no merit, and the Office respectfully concurs in his recommendation that it be denied.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

EVE-EH

J.Y.Jr.

DEPARTMENT OF THE INTERIOR, LLS
WASHINGTON.

I.T.D.24822-1906.
L.R.S.

January 25, 1907.

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

On December 8, 1906 (Land 103303), the Indian Office transmitted your report in the matter of a motion for rehearing in the Cherokee freedman case of Daniel Whitmire.

You consider the motion to have no merit and recommend its denial.

The motion is based on newly discovered evidence. The new evidence submitted is merely cumulative and the applicant could certainly have discovered it during the five years the case has been pending, by diligence.

Said motion is hereby denied.

The record and accompanying papers have been sent to the Indian Office for its files.

Respectfully,

(Signed) Thos., Ryan,

Through the Commissioner
of Indian Affairs.

First Assistant Secretary.

1 inc. and 9 to Ind. Of.

Cherokee F.
D 434

Muskogee, Indian Territory, February 16, 1907.

Daniel Whitmire,

Wann, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a rehearing in your Cherokee freedman enrollment case, filed by your attorney W. W. Wright, Washington, D.C., was denied by the Secretary of the Interior, January 26, 1907.

Respectfully,

HJC

Commissioner.

Cherokee F
D 434

Muskogee, Indian Territory, February 16, 1907.

W. W. Wright,

Washington Loan & Trust Building,
Washington, D.C.

Dear sir:

You are hereby advised that the motion for a rehearing in the Cherokee freedman enrollment case of Daniel Whitmire, filed by you, was denied by the Secretary of the Interior, January 25, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl. HJ-75,
HJC

Commissioner.

Cherokee F.
D 434

Muskogee Indian Territory, February 16, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear sir:

You are hereby advised that the motion for a rehearing in the Cherokee freedmen enrollment case of Daniel Whitmire, filed by his attorney, W. W. Wright, Washington D. C., was denied by the Secretary of the Interior, January 25, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl. HJ-63.
HJC

Commissioner.

7B.

79.434.

RECEIVED
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 29 1901

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

May 29, 1901

Post Office

Elkhart, Ind.

District

Boo

1. Name

Daniel Whitmore

Age

44

Owner's name

Citizenship

Year

K.C.

Page

101

No.

2526

District

Boo

Parents:

Father

Dick Whitmore dead

Citizenship

Mother

Betty " - dead

Citizenship

2. Name of wife

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Doubtful

Citizenship

Mother

Citizenship

Names of Children:

3.

Year

Page

No.

Dist.

4.

Year

Page

No.

Dist.

5.

Year

Page

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6.

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Dist.

11.

Year

Page

No.

Dist.

12.

Year

Page

No.

Dist.

Application made by

No 1

Stenographer

H. Jones

/ On Wallace roll, P. 149, # 3104 - Boo

422

X Ref.



NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Daniel Whitmire,
Elliott, I.T.
Cherokee F-D-434
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Indian Office
2336 Incl. No. 1903

16 104

of 12229

25221

CHEROKEE CASE NO. 1

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE
APPLICATION FOR ENROLLMENT

OF

Daniel Whitmire

As _____ citizen _____ of the Cherokee Nation.

Muskogee, I. T., JUL 10 1903 190

Respectfully forwarded to the Secretary of the Interior
for review.

Acting Chairman

Enc A 46

Cher. Fr. R. 884

Trans. from C. Fr. D. 435

Cher. Fr. R. 889

File with Cherokee Freedman D-

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 9, 1901.

In the matter of the application of Aaron Webber for enrollment as a Cherokee Freedman.

Aaron Webber, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Aaron Webber.
- Q How old are you? A 36 I think.
- Q What is your post office address? A Wymer, Cherokee Nation.
- Q What district do you live in? A Cooweescoowee district.
- Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
- Q Do you want to enroll anybody besides yourself? A Just myself.
- Q Have you ever applied to be enrolled by any other tribe or Nation besides the Cherokee Nation? A Yes sir, the Clifton Court and the Wallace Court.
- Q The you apply to any other Nation, the Creeks? A No sir.
- Q Never drew any money from any other Nation? A No sir, I didn't.
- Q Have you been recognized by the Cherokee authorities as a Cherokee citizen? A Yes sir.
- Q Is your name on the roll of 1880? A It is on this roll here Mr. Bledsoe has got here; I come with my brother Sam Webber.
- Q Is your name on the roll of 1880? A No, sir.
- Q Did you ever draw your strip payment money? A Yes, sir.
- Q How much did you draw? A \$15.50, and then I drew this other payment, this last payment, I drew it.
- Q You drew the last payment? A Yes, sir.
- The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.
- The 1896 census roll of Cherokee Freedmen examined and the applicant not identified thereon.
- The Kerns-Clifton roll examined, and the applicant identified thereon, page 126, No. 315, Cooweescoowee district.
- Q Were you a slave before the war? A Yes, sir.
- Q Who did you belong to? A Takie Webber.
- Q Was she a Cherokee citizen? A Yes, sir.
- Q Where did you go during the war? A Went to Kansas.
- Q When did you come back from Kansas? A Came back in 1866.
- Q You been living here ever since? A Yes, sir.
- Q Are you married? A No, sir.
- Q Ever been married? A No, sir.
- Q Got no children then? A No, sir, I haven't.
- Q You are certain you came back in 1866? A Yes, sir, I did.
- Q Who did you come back with? A Sam Webber and my father.
- Q Why is your name not on the roll of 1880? A Why I can't tell you about that.
- Q Did you ever try to have it put on? A Yes, sir.
- Q They refused to do it? A Yes, sir, must have, for it aint there.
- Mr. W. W. Hastings, attorney for Cherokee Nation: You say you returned with your brother Sam? A Yes, sir, I did.
- Q Did you come the first time he came out here? A Yes, sir, I did.
- Q What time of the year was it? A '66.
- Q What time in the year '66? A Well you see I can't read and I can't write, I didn't keep no count of the days and the months because my owner's didn't give me time to get my education.
- Commissioner: Was it in the fall or summer? A It was along in March when I came back in 1866.
- Mr. Hastings: Was it the March after the treaty was made? A Yes, sir.
- Q You are certain of that? A Yes, sir, I am.
- Q And you came back with him at that time? A Yes, sir.
- Q Did he bring his family along then? A Yes, sir.
- Q His wife and children? A Yes, sir.
- Q He had already been out there and put up a house? A Yes, sir, I had come out before that and I come with him, and we put up a house and I came back with him in '66.

Q The first time you came back was in March after the treaty was made? A Yes, sir, that is when we moved there.

Q How long before that was it when you came out? A I can't give the days of the months, how long it was we came out, but we came and put up a house one Fall and went back and came right on down.

Q About how long did you stay out here when you had put up the building? A We stayed three or four days and then went right back and moved down.

Q What kind of buildings did you put up? A We put up a log cabin.

Q Out on Big Creek? A Yes, sir.

Q How far from where Sam Now lives? A Sam lives on the north side of Nowata and we live up there on Big Creek, I can't tell you exactly how many miles, but he lives at Nowata and we live up there on Big Creek.

Q What old citizen lives near where you first located, where you first located when you first moved out? A There isn't anybody lives there now.

Q Name some old citizen who lives at the place now where you located then? A Sam Webber.

Q Does Sam Webber live at that place now? A He did live there but he don't live there now.

Q Who lives at the place Sam and you came to? A The Meigs and Whitmires and Sanders, and a whole lot of them.

Q You have lived there ever since? A Yes, sir.

Q You came out in wagons the first time? A Yes, sir, because Sam Webber drove the ox wagon and I drove the horse wagon.

Q Do you know anything about dates? A I know when they say the year is out, and this year is in.

Q What year is this? A If I am not mistaken I think this is May.

Q The year though? A I can't tell you exactly what year it is, because I am not educated like you smart men.

Q You are satisfied in '66 you came here in March? A Yes, sir.

Commissioner: Do you know when the treaty was adopted, know what month it was adopted in, the treaty; you told Mr. Hastings you came here the march after the treaty was adopted; you don't know what month in 1866 the treaty was adopted? A No, sir, I don't.

Q Have you got any witnesses? A Yes, sir, Sam Webber, and Abe Hare.

Sam Webber, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Sam Webber.

Q What is your age? A About 58, somewhere nearabout that.

Q What is your post office address? A Nowata.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Your name on the 1880 roll? A Yes, sir.

Q Do you know Aaron Webber? A Yes, sir.

Q Is he any relation to you? A He is my brother.

Q Was he a slave? A Yes, sir.

Q To whom did he belong? A Yalie Webber.

Q Was she a Cherokee citizen? A Yes, sir.

Q By blood? A Yes, sir.

Q Where was he during the war? A He was with us in Kansas.

Q When did he come back? A He came with us when we came back in July.

Q You came in July from Kansas and he came with you? A Yes, sir.

Q What year was that in? A In 1866.

Q He was a slave the same as you? A Yes, sir, same as me, with the same owners.

Q Ought to be entitled to the same rights you have got? A Yes, sir, have just the same right, belonged to the same parties too.

Mr. Hastings: Q What time of the year was it you say you brought him back? A We came in July and built houses and went back and moved down.

Q You had heard of the treaty passed? A We came right in the same month the treaty was made in because we overtook the delegates

at Fort Scott.

Q You had heard of the treaty before you left there? A As soon as we arrived at Fort Scott and talked to them, and they told us they had made a good treaty.

Q And you came on down and he came with you? A Yes, sir.

Q Did you bring your families at that time? A I didn't have any family then.

Q The rest of the people, they come along? A Yes, sir, I was small myself, I was with father, we came and built and went and moved some of them after that.

Q How long did you stay down there at this time? A I didn't stay long, I couldn't tell you just how long we really stayed, we didn't stay only long enough to find claims and cut logs and build shanties.

Q Who lives up there at the place that you located, now? A Reuben Sanders lives right where I built my house, he is living there to-day Mr. Bell: Where did you start from when you started from Kansas

down to Big Creek? A Started from a little creek six miles south of Mound, said to be about twenty miles north of Fort Scott.

Q Had you started to the Cherokee Nation when you came across these delegates at Fort Scott? A Yes, sir.

Q What was your notion about starting? A I had been down here and looked through the country and went back and told them the war was over here as well as everywhere else, and let's come home.

Q You hadn't started then with a view to saving your rights here under the treaty? A We didn't know nothing about the treaty, it wasn't made when we started as we knowed of, until we got to Fort Scott, and we saw the delegates.

Q What time was that? A Along in the last part of July, the last week in July, as near as I can remember.

Commissioner: When Aaron says he came in March he is mistaken?

A He is mistaken, he don't know dates; he is not bright enough to know dates.

Abraham Hare, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Abraham Hare.

Q How old are you? A About 70.

Q What is your post office? A Wymer.

Q Are you a Cherokee Freedman? A Yes, sir, claim to be.

Q Your name is not on the roll of 1880, is it? A No, sir.

Q Were you a slave? A Yes, sir.

Q What was your owner's name? A Arlie Hare.

Q Do you know Aaron Webber? A Yes, sir.

Q Was he a slave? A Yes, sir.

Q To whom did he belong? A Takie Webber.

Q Well, did you know Aaron Webber before the war? A Yes, sir.

Q Did he go out of the Cherokee Nation during the war? A Yes, sir.

Q Did you go out? A Yes, sir.

Q What made you colored people go out during the war? A We couldn't stay here.

Q Thought it was safer to go out? A Yes, sir, I had to go out.

Q Why couldn't you stay here? A They wouldn't let us.

Q Who wouldn't let you? A The Rebels and the Yankees neither one.

Q Where was Aaron Webber during the war? A He was with his father up in Kansas.

Q When did he come back? A He come back in the fall of '66.

Q How do you know? A I come with him.

Q And you came at that time? A Yes, sir.

Q Have you known Aaron Webber since that time? A Yes, sir.

Q Has he always lived in the Cherokee Nation? A Yes, sir, lives right by me now.

Mr. Hastings: Your rights are disputed? A Yes, sir, same as his.

Q You were in here this morning; your case was presented?

A Yes, sir.

Commissioner: Aaron Webber applies for the enrollment of himself as a Cherokee Freedman. His name does not appear upon the authenticated roll of 1880, but does appear upon the Kerns-Clifton pay-roll. By reason of the protest of the Cherokee Nation the name of Aaron Webber will be placed upon a doubtful card awaiting further consideration of the Commission.

~~REDACTED~~

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 10th of May, 1901.

C. R. Breckinridge,

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 29th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Joe Ross
C. F. D. 360.

Appearances:

W. W. Hastings for the Cherokee Nation.
Maillette & Smith for the applicants.

DOUGLAS WALKER, being first duly sworn by Commissioner C. R. Breckinridge, testified as follows for the Cherokee Nation.
(By the Commission)

Q Give me your full name? A Douglas Walker.

Q How old are you? A 30.

Q What is your post office? A Mound City, Kansas.

(By Hastings)

- Q How long have you lived in Mound City, Kansas? A Since May 1857.
- Q What was your father's name? A James Walker.
- Q What was your mother's name? A Miama Walker.
- Q Was your father and mother here the first of the month? A Yes sir.
- Q They testified in this matter at that time did they? A Yes, sir.
- Q Do you know Samuel Webber? A Yes, sir.
- Q Did you know his son Samuel Webber? A Yes sir.
- Q Where did you know them? A Near Mound City, Kansas; in the neighborhood where I live.
- Q Do you know the applicant here, Joe Ross? A I know him as Joe Webber.
- Q Is the the same fellow? (pointing) A Yes, sir.
- Q Where was he living at the time? A He lived with the older Sam Webber at the time.
- Q You know this applicant here is the same party? A Yes sir.
- Q Did you know a woman named Chlora? A Yes sir.
- Q What relation was she to Joe Ross? A Sister.
- Q Did you know Aaron Webber a little duck legged fellow? A Yes sir.
- Q Where did you know him? A In the same family in Mound City, Kansas, Linn County.
- Q Whose farm did Samuel Webber live on, if you know? A He lived on a farm that belonged to a man named Jeff Flemmings.
- Q I mean in the year 1866? A My father bought the farm.
- Q Of whom did he purchase the farm? A Of Flemmings.
- Q Do you know where young Sam Webber was married? A He was married there in Linn County, near Mound City, in the neighborhood there, where I was living.
- Q Did he marry before or after he moved from that country? A Before he moved.
- Q Mr. Walker, have you looked up the date of when your father purchased that farm? A Yes sir.
- Q The date of the deed? A Yes sir.
- Q What was that date? A The date of the deed is October '66.
- (By Mr. Smith) Object to that if you have not the deed.
- (By Mr. Hastings) Have you looked up the date? A Yes sir, but have forgotten the exact date as to days.
- Q At that time, where was Sam Webber living? A On this farm that father purchased.
- Q Where was young Sam living at the time he married? A On this farm on the same place.
- Q What is your best judgment as to the time Sam Webber, including Joe Ross, Chlora Grayson and Aaron Webber left that country with their women folks and come to this country? A According to my best recollection it was the latter part of February or early in March of '67, I can't state exactly the month; early in the spring of '67 though.
- Q Did they all move down at the same time? A All started together.
- Q Left there together? A Yes sir.
- (By Mr. Smith)
- Q You say you know that this applicant in this case is the same man that you knew at that time in Kansas as Joe Webber? A Yes sir.
- Q How did you know it? A I recognized his countenance as one man knows another.
- Q How? A Well I saw him.
- Q When? A To day.
- Q Where? A On the street.
- Q And you knew him as Joe Webber? A Yes sir, the name Joe Ross was not used much.
- Q When did you first become acquainted with old man Sam Webber? A In '63 he moved on that farm.
- Q Which farm? A The farm my father bought in the neighborhood where I lived, the old Flemming farm.
- Q When did your father buy that farm? A In the fall of '66, I have forgotten the exact day, in October or September.

Q Who owned the farm at the time old man Sam Webber was on it? A Jeff Flemming owned it until my father bought it.

Q How do you know it was '63 that you became acquainted with Sam Webber? A I remember that it was during the last years of the war and the refugees were coming into Kansas, both white and black, in '63 and they were amongst them.

Q Did any come after '63? A Yes sir some came later and some come earlier, and I remember again by this farm, I remember how long they farmed it before we got it.

Q How long? A Three years--four years in the spring of '67.

Q They farmed it four years before your father got it? A They farmed from '63 to '67.

Q You say the reason you knew that you knew this man in '63 was because you knew how long they worked this farm before your father got it? A Yes sir.

Q You say it was in September of 1867 that your father bought that farm? A In '66.

Q You are positive about that? A Yes sir we got possession the first of March '67.

Q Did old man Sam Webber rent this place from your father? A No sir he rented it from Flemmings.

Q Did Sam Webber, the old man and the boys, come down here or leave that country in the fall of '65? A I think not.

Q Dont you remember that they did and that the old man came back by himself one time? A If my memory serve me, it was in '66, late in the summer, or early in the fall of '66.

Q What was in the fall of '66? A That they came down here--started away from there.

Q Who came then? A Sam Webber, the old man, and young Sam and Aaron.

Q What is your recollection as to how long they staid? A They came back I think in November or late in October.

Q Well which came back first? A Why I think the older Sam Webber came first.

Q How long do you think it was before you saw Sam Webber Jr. again?

Q Well, it was a short time, a month or so--I can't recollect that, it is a good while ago.

Q Who helped Sam Webber make a crop in '66? A Johnson Webber and the old man Sam made a crop in '66.

Q Who helped him? A Them two and the little boys I think worked too; Aaron did, I dont know but as Joe did too, I dont remember much about that.

Q Where was old man Sam Webber in July 1866? A That summer he raised that crop and worked part of the summer for my father on this farm.

Q Is it not a fact that in July of 1866 that Sam Webber Jr. came here for his father and that they left there for this country to build some houses? A That is not the way I remember it.

Q You have stated that it was a long time ago, do you think that you remember the dated absolutely? A Not to the day or month exactly, but that is my best recollection.

Q Are you testifying to the best of your recollection? A Yes sir.

Q Do you remember of Sam Webber Jr. bringing any hides to that country?

A Yes sir.

Q When was that? A In the fall or beginning of the winter of '66 and '7 he brought some hides and furs.

Q To refresh your memory, was it not in March? A March when?

Q '66? A No sir.

Q Upon what trip was that that he brought these hides? A He left and said he was coming down on a hunting trip.

Q Was that the trip when he left Kansas and when old Sam returned first that you spoke of a while ago? A Yes sir, that was the one, the same trip.

Q Do you remember of Sam Webber selling out a crop up here? A I dont.

Q Do you remember of them leaving there to come to the Territory to build some houses? A Yes sir.

Q Was that after the time that he brought the hides there? A It was that trip that he left there for the purpose of building some houses that he brought the hides when he returned.

Q Dont you remember of them leaving there to come to the Territory for the purpose of building houses? A Well that was wither in the spring or winter, in the latter part of February or early in March I have not given the matter any considerable study.

Q How do you fix the dates you have given? A I remember them and then by the dates I have looked up.

Q What dates have you looked up? A The purchasing of this land.

Q Are you testifying from the date of the purchase of that land? A Father bought the place in the spring of '66 on condition and paid \$80 down, or traded cattle, as a forfeit, and in the fall he got some money and got full possession of the place; Webber had possession until the first of March, that is the Kansas law, from the first of March one year until the first of March the next year; they had possession of it until March first 1867.

Q Mr. Walker, when you had occasion to investigate this matter, you had forgotten all about it practically hadn't you? A No sir, but it was something I had not thought much of.

Q You couldn't have told on the moment what year Sam Webber left there could you? A I would have had to look at the dates.

Q Then you are not testifying from your recollection, but from the dates that you have looked up since? A Part of it is from recollection and part of it is from looking up the dates.

Q How long has it been since you thought of the time Sam Webber left that country before you made this investigation? A I was asked the question as to when they moved and I hadn't given the matter any thought till then.

Q You didn't know then did you? A Yes sir after I thought it over.

Q How long did it take you to think it over? A I dont exactly remember.

Q Can't you give us some idea of it? A 2 or 3 weeks.

Q Were you here when your father testified in this case? A Yes sir

Q Did you know as much about it then as you do now? A No sir.

Q How long was that from the time you had first been spoke to about the date? A I had not expected then to give testimony in this case and had not thought much about it.

Q What were you doing here then? A I was subpoenaed in another case.

Q You had been talking about this case then? A Not much.

Q How much? A A word or two.

Q And you were here all the time your father and mother were her and yet didn't testify in this case? A Yes sir.

Q You went back to Kansas? A Yes sir.

Q And came back here again to testify? A Yes sir.

(By Hastings)

Q You were subpoenaed by the Cherokee Nation? A Yes sir.

(Continued by Stenographer J. O. Reason)

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Tribes, he reported in full the above cause and that the foregoing is a true and complete transcript of his stenographic notes therein.

Chas. von Weise.

Subscribed and sworn to before me this the 9th of November, 1901.

T. B. Needles,

Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original.

Ray Palmer

Subscribed and sworn to before me this the 24th day of August, 1902.

James C. Jones
Notary Public.

Before Commissioner Breckinridge, at Tahlequah, I.T., Supplemental C.F.D.-350, Joe Ross.

(By Stenographer: This following testimony was originally taken down by stenographer J.O. Rosson, and afterwards dictated by him to stenographer M.D. Green.)

--00--

HENRY C. SHORT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Henry C. Short.

Q How old are you, Mr. Short? A 48.

Q What is your post office? A Mound City.

Q In the Cherokee Nation? A In Kansas.

BY MR. HASTINGS:

Q How long, Mr. Short, have you lived in and about Mound City, Kansas? A Well ever since the spring of 1857.

Q What was your father's name? A John Short.

Q Were you living there in the years '66 and '67? A Yes sir.

Q Were you living in town or in the country? A Living in the country.

Q Do you know Douglass Walker that left the stand? A Yes sir.

Q Did you know a colored man by the name of Sam Webber up there?

A Yes sir.

Q Do you know that young Sam Webber, his son? A Yes sir.

Q Do you know Joe Ross? A Yes sir.

Q This is the man there? (Pointing to the applicant.) A I wouldn't have known him unless he had been pointed to me. They always called him Joe; I don't remember about him being called Joe Ross up there.

Q Have you talked to him? A Just spoke to him.

Q Did he recognize you as being the man? A He recognized me as being Short by telling him who I was and where I was from; he claimed that he was one of the boys.

Q Do you know Aaron Webber, a little duck legged fellow? A Yes sir.

Q Where did you live in the spring of '66? A In Linn County, on Elk Creek, in Kansas.

Q Did you live on the same place in the fall of '66? A Yes sir.

Q Did you live in the same house? A I lived in the same house now that I moved into in the fall of '66.

Q Well now what time in the fall did you move into it? A Well now it was the last of October or the first of November, I won't say which; along about in them times I moved, that is my folks moved; of course I was small, I moved there after that from the west part of the place to the east part of the place.

Q Do you know where Sam Webber was at that time? A They lived then at that time in the fall of '66 they lived on the place known as the Fleming place, adjoining farms of ours.

Q Were they living there when you moved? A That fall?

Q Yes sir? A They were living there then.

Q I will ask you what is your best judgment as to the time they moved with their families and left that country? A Well I could not say just how, for I have got nothing to fix them dates. The best of my judgment they left there in February.

Q February now of what year? A Of '67, I would say that, but now I aint certain, I aint got any opinion about what time they left.

MR. SMITH: Now I move to strike out the testimony to that effect, because the witness says that is his opinion.
Commissioner: We will take it for what it is worth and let the Commission pass on it.

BY MR. HASTINGS:

Q That is your best judgment? A Yes, sir.

Q That is your best recollection? A (No response.)

Joe Ross (sup'1) 6

Q You said I believe you knew they were there, Joe Ross, that is all I can state positively. I can't say they were there.

Q You know that by your move? A Yes sir, that is the way I have got you know.

Q Do you know Joe's sister, Chlorea? A Yes sir, there was a girl there called Chlorea, I supposed it was Joe's sister.

BY MR. SMITH:

Q Mr. Ross, how old were you in '66? A About 13 years old, September 5, 1866.

Q Now when were you first asked as to the time when Sam Webber left that country? A When was I asked first?

Q Yes? A I think it was last Sunday.

Q Tell you didn't know did you? A No, I don't know yet what day he left there at all.

Q Did you have that opinion then? A Yes, I have the same opinion I got now; it was the best of my opinion they left in the spring; I got nothing to say they did or did not.

Q Where was Sam Webber, Jr., in February 1866? A I don't know.

Q Where was he in October, 1865? A He was on the creek.

Q Did you see him? A Yes, he was there; he hadn't moved; he come down here and went back again in the fall; and the whole family was all there in the fall.

Q What was in the fall of 1865 was it? A Fall of 1866.

Q I am talking about 1865? A Well they was there too.

Q Did you see him? A Yes, of course they was there.

Q Of course, well how do you know, did you see him? A Yes I saw him.

Q Where did you see Sam Webber in the fall of 1865? A Oh I don't know; he worked some for us.

Q Did he work for you in the fall of 1865? A Worked for my grandfather some.

Q That young Sam Webber? A Yes, sir.

Q You say you knew young Sam Webber, the younger of the two?

A Yes, sir, I knowed young Sam and old Sam too.

Q Did you know young Sam Webber, called Sam Webber, Jr? A Yes sir, of course it has been a long time from the time I saw him, from the time he left there until I come down here; saw him the first time as soon as I moved there.

Q And did you say about his being a boy? A I suppose he was a young man. I couldn't say as to that.

Q What about Joe Ross, was he a boy? A Yes sir, Joe was younger than me if I am not mistaken. Wasn't much difference in the ages, but I think he was younger than me.

Q How is it not a fact that Sam Webber and his father old Sam Webber and Aaron Webber came to the Cherokee Nation in the fall of 1865?

A I think not, I don't think they did; they was there in 1866 but they was going and coming all the time; they come down in 1865 and 1866.

Q They came in 1866 and located? A Yes sir, but they come back and got their family.

Q Now you know only that they were there in 1865? A I know they were there in '66.

Q You don't know what time in '66 they were there? A They were there before '66.

Q Well I am talking about '66; were they there in the spring of '66? A I couldn't say what time of the year; I think they were there all the time.

Q You don't know whether they were there all the time in 1865 or not? A No sir, I couldn't say that they was.

Q Do you remember Sam Webber Jr. and Sam Webber Jr. and Aaron Webber coming down to the Cherokee Nation at any time? A They come down in the summer of '66 I think, directly after crops was made; they come down here and they went back up there together in the fall.

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Q. Well, did they ever come back together? A. I don't know whether they did or not. Aaron didn't come back. I don't know.

Q. What about Sam Jr.? Did he come down with his father? A. Yes sir, don't know whether Aaron come back or not. I know Sam and the old Sam came back and got the family.

Q. Do you know that they came back together? A. Yes, I am pretty sure that they came back. I know I saw them afterwards.

Q. Now, I remember of Sam, father, ever bringing any hides into the country? A. No sir, I don't remember. I remember Sam telling me he

Q. When did he tell you he had his cabin built? A. In the fall of '56.

Q. He had been down here in the fall of 1856 and had built a cabin.

Q. And now that final move when they took all the people out you

Q. And in that time, I don't know, but it runs in my mind

Q. A February or March? I can't say anything about that.

Q. What year? A. '57.

Q. Can you remember anything about that? A. I don't know whether

Q. Yes or no.

Q. You don't know whether it was or not? A. In air, that is a

Q. Yes, but it runs in my mind it was.

Q. There was Sam, father, during the winter of 1856 and '57, the

Q. For that coming with his father, 1855 and 1856 with February

Q. Yes, I think he was there.

Q. Well, all you saw him there? A. Yes, I think he was there pretty

Q. In all the time.

Q. And do you know it? A. I got no way to fix it, that's my

Q. I can't state it positively that he was or was not. A. I know

Q. But of course he was there and I believe he was too.

Q. You can't state that positively? A. No sir, not unless I got

Q. Something to fix the date.

Q. You can't say that? A. In air.

Q. Now can you remember about Mr. Webster coming up there in the

Q. Fall of '56 and bringing some beef with him? A. No sir, I can't re-

Q. Call of any of the names as a long time ago now I have got them

Q. I don't know in my head that was in the fall of '56 I was moving from

Q. I don't know to the other, and that was in the fall.

Q. You didn't go off of that time? A. No sir, just moved from the

Q. To the west side.

Q. And you were a boy about 15 years old? A. Yes sir.

Q. That is there in that to fix the date in your mind it was in 1856

Q. Or more than 1856, I moved? A. I know we moved from the things

Q. That occurred, the death of the father of a young man that was

Q. I know it was '56.

Q. Now about that boy about the cows in the family? A. There

Q. Was a young man died in the family in '57, 4 years after we moved

Q. There, I must have been from the family that he did when we moved

Q. For the house, but he didn't live in his house at all.

Q. You don't seem to be positive about any of these dates you give

Q. I do, when the family moved over, remember that fact.

Q. Now about Webster's movement? A. They was all there in the

Q. Fall of '56, they was all there in October or November one of the

Q. Months, because we moved then.

Q. Now, I never passed them up there in 1856 did you? A. No sir.

Q. I don't know, I don't know if it is not correct whether it

Q. Was then or not.

Q. You never saw them up there the summer of 1857? A. No sir.

Q. Now, I am collecting of them, leaving them, that's

Q. Is your first recollection of them, leaving? A. Yes, sir.

Q. A. Hicks, being here and talking to him, because he

Q. Was in the house.

Q How old are you? A If I live to the 1st of next month I will be 37 years old.

Q What is your post-office? A Wintoy.

Q Is that in Kansas? A Yes sir.

BY MR. HARRIS:

Q How far do you live from Mound City, Kansas, Mrs. Hicks? A I live six miles.

Q How long have you lived in that neighborhood? A Ever since the spring of 1887.

Q You were living there then after the war? A Living there in the time of the war.

Q Do you know Mr. Walker, Douglas Walker, that has been on the stand? A Yes sir.

Q Do you know Mr. Short that left the stand here? A Yes sir.

Q Mrs. Hicks, did you know of a man up there by the name of Sam Webber? A Yes sir.

Q How far did you live from him just after the war? A Well I think it was about 175 steps; they used water out of my well.

Q Did you know his son, young Sam Webber? A Yes sir.

Q Well did you know a little boy one called Aaron Webber? A Yes sir.

Q Did you know a boy called Joe Ross? A Yes sir.

Q Have you seen any of these parties since you have been here this time? A Why I met Joe Ross down there; he said he knew me and come up and shook hands with me and I saw Sam Webber.

Q I will ask you to look if this is the same parties now? A Well I tell you Ross don't favor himself so much, but Joe he is just like his father and I knowed him because he is just like his father; well old uncle Sam was older than Sam is of course.

Q I will ask you if you had any deaths in your own family in the fall of '86? A Yes sir.

Q What was the date of it? A The date of the death?

Q Yes, madam? A Well it was October.

Q Did you make any record of it in your Bible? A Yes sir.

Q Is this your Bible? A I reckon it is; if you will let me look I will tell you.

Q Look at it and see if this is your Bible? A I think it is, but I can't read it, I haven't got my specs.

Q You haven't got your specs? A No sir.

Q Well of the family record here of births and deaths appear this: "Franklin Hicks, was born November 7, 1864." A Yes sir.

Q And under the column of deaths appears: "Died October 23, 1886." A That is correct.

Q Who was Franklin Hicks? A He was my son.

Q Do you know where Sam Webber was when your son Franklin died? A No sir, I could not tell you.

Q Don't know? A No I don't; you mean this Sam?

Q That man? A Oh, the old gentleman; he lived up there by me I think I am most positively he lived there then.

Q Do you know where his wife was? A His wife died there.

Q Well do you know whether she was dead at the date of your son's death? A Yes sir, she died I think before he died; there was an old lady, they called her old Aunt Rhoda, living.

Q How was living? A Yes sir.

Q Was she a member of this family? A Yes sir, she lived there with them.

Q Tell me you know whether she was there during the sickness of your child? A Yes sir, she sat up with me several times, and in it was a bed night and she saw no one come in she would come and sit up with me.

Q Did you know a sister of Joe's called Chloa? A Yes sir.

Q Now I would like to have your best judgment Mrs. Hicks as to the time Old Sam Webber moved with his family and children from that country? A

MR. SMITH: The applicant objects to the witness giving her opinion as to the time when this sickness took place, because it is not the subject of their expert or opinion evidence.

COMMISSION: I understand the question to be her best recollection.

A It has been a long time you know.

Q Well, answer the question? A About him being there?

Q I want to know, the question is, what is your best recollection as to the time Sam Webber and his family, when he left Kansas with his family? A -

OBJECTED to by applicant.

A Well my best recollection was that, I would not be positive of course, but I think it was in February or March, one or the other. The best of my recollection, because the old lady, old aunt Rhoda and uncle Cy, that was her husband, they both was old and feeble and I think old uncle Sam stayed there on that account more than anything as long as he did.

Q Well now that would be February of what year? A It would be '67 wouldn't it?

Q You lived then about 175 yards of them? A Yes, sir, I could hear them sing over there and hear them laugh and talk to my house.

Q On whose place were they living? A Well they was living on Mr. Walker's place then.

Q Had he recently purchased it? A Yes sir.

Q Do you remember who he purchased it off? A I think it was a man by the name of Fleming; I think it was Flemings owned it.

BY MR. SMITH:

Q About how long, Mrs. Hicks, had Mr. Walker owned this place at the time these people lived there? A Well I couldn't answer that question

Q Well you could tell whether it had been a few months or whether it had been a year or two? A It was, I suppose it may be quite a while; I couldn't tell you.

Q You remember that Mr. Walker owned a place there? A Of course I know he had charge of the land; I think Mr. Walker bought it from Mr. Fleming if I aint mistaken.

Q And you know these Webbers were living on the Walker place?

A Yes sir.

Q Well now what is your best recollection as to how long Mr. Walker had owned that place? A I don't know; I wont pretend to say anything I don't know; I dont want to meddle with, I didn't come down here to criticize or anything about it; I want to tell the truth as far as I can.

Q Where was young Sam Webber in December, 1865, and up until January or February of 1866? A I could not tell you where he was, I think Sam worked out some around; I couldn't tell you whether he was at home all the time or not; I could not tell you.

Q Where was young Sam Webber at the time your child died? A I couldn't tell you that; This one?

Q Yes? A I don't know.

Q He was not there was he? A I don't know, I couldn't say as to that.

Q Do you remember old man Sam Webber and young Sam Webber and Andy Webber and others leaving; Aaron Webber and others leaving that community in 1866 and coming down to the Cherokee Nation? A I recollect only Sam coming down here, I don't know, I wont be positive, I guess though it was in '66.

Q Well about how long was it ago, your best recollection, before this date in the fall that you have spoken off? A I don't know.

Q Don't know? A No I don't; but I recollect about it, he brought me back spice wood and sassafras root.

Q Do you remember young Sam bringing some hides to the community?

A No sir, I didn't charge my mind with anything like that.

Q Well now give me some idea, Mrs. Black, about the time old Sam Webber started off on this trip to the Cherokee Nation in 1866 that you testified about? A Why I don't know; he came in the fall I reckon.

Q You don't know whether it was fall, summer or spring? A No sir, I don't.

Q Well how is it you have no better recollection of this very time that you mention he came than you have of the first time? A I know he was there when that child of mine died.

Q And you don't know how long after that? A No; they went along the latter part of the winter, but I don't know what time; I think though it was in February or March.

Q You couldn't be positive whether it was February or after Christmas could you? A I don't think it was before Christmas.

Q You don't think that was? A No I can't, for several facts.

Q You can't state positively whether it was before or after Christmas, you can't answer it? A I wouldn't want to swear it either way.

Q Where did you move from this place that you live? A Where did I move from.

Q How long have you been living at this place now where you lived when your child died? A I have been living on the place ever since the spring of '57.

Q About how long did you remain on the place? A I stay there yet, when I am at home; my husband is dead.

Q Do you know how many trips Sam Webber made to the Cherokee Nation before this time that he came away from there the last time? A No sir, I don't.

Q You know of his coming one time? I know him and his father and I think Aaron, and I don't know whether Joe was along or not.

Q Well is this Joe? A Well of course, on that one, Joe Webber, that one sitting there?

Q Yes? A I think it is.

Q Which one of them don't look familiar? A That one, he was nothing but a boy when I knew him.

Q Which one, the one right here, the black one? A Yes sir.

Q What is his name? A Joe, we always called him.

Q And what is that man right here? A Sam, that is the way we always called him.

Q You think that is the man you knew up there in Kansas? A This Joe? A I don't know, he says it is; he was nothing but a boy when I saw him.

Q You don't recognize him then? A Hardly, I wouldn't know; he says he is the man; I used to think he was a very good boy when they lived there, but then he has passed out of my knowledge.

Q You don't know where old man Sam Webber was in July '66 do you? A No sir.

Q You remember anything about young Sam Webber coming for the old man and the family in July 1866? A Well he might have come after; then but they didn't come down here in July.

Q You don't know when they did come? A Why I think they come sometime in the latter part of the winter, but I say I would not be certain what month it was, in February or March.

Q You want be certain it was either of them? A I say they left, I was there and saw them start.

Q You would be certain it was either February or March? A I think they did.

Q Are there so? A Yes sir.

BY MR. HASTINGS:

Q I was going to ask you if you knew about young Sam Webber marrying in 1866? A They said he married; I didn't see it done.

Q Did you hear of his marrying up there? A Yes sir.

Q Was that before or after he left? A It was before they left.

JANE SPEARS, being sworn and examined by Commissioner
Breakbridge, testified as follows:

Q Give me your full name? A Jane Spears.
Q How old are you? A I am 40 years old.
Q What is your post office? A Mound City.
Q In the State of Kansas? A Yes sir, Mound City, Kansas.

BY MR. HASTINGS:

Q Mrs. Spears, was Mrs. Hicks who left the stand your mother?
A Yes sir.
Q How long have you lived in and about Mound City, Kansas, I mean in
the neighborhood? A Well I came there when I was about a year old.
Q And you have lived there ever since? A Yes sir, well since I
have been married I have just moved one mile north.
Q You moved a mile north of your mother? A Yes sir.
Q Do you know Douglass Walker? A Yes sir.
Q Do you know Henry O. Short? A Yes sir.
Q Do you remember at an early date just before the war some colored
people that lived up there; one of them by the name of Sam Webber?
A Yes sir.
Q Do you remember his son Sam? A Yes sir, I know him.
Q Were you living with your mother at that time? A Yes sir.
Q Did you know Joe, that was living with them, Joe Ross? A Yes sir.
Q Have you seen any of these parties since you have been here this
time? A I met them to-day.
Q Talked with them some? A Well I just spoke to Joe; Sam I did not
Q Did he recognize you? A Well he let on as though he did; I dont
know that he did; I suppose he heard we were here.
Q I will ask you if this is your mother's family Bible? A Yes sir.
Q That is the family record of the births and deaths? A Yes sir.
Q I will ask you if you had a brother by the name of Franklin Hicks?
A Yes sir.
Q Do you remember the date of his death? A Yes sir, October 23,
1866.
Q I will ask you if you know where the Webber family was living at
the time he died? A Yes sir, they were living there.
Q About how far from your mother's? A About 175 steps I suppose,
in a cabin.
Q Short distance? A Yes sir.
Q Did you know Aaron Webber, a little short legged duck legged
fellow? A Yes sir.
Q I would like to know from you Mrs. Spears your best recollection
as to the time old man Sam Webber left that country permanently
with his family? A -

BY MR. SMITH: The counsel for the applicant objects to that
question, because it is incompetent and calls for the opinion
of the witness.

COMMISSIONER: The Counsel for the applicant has put a number of
questions in the same form and asked as to their best recol-
lection that exists; it is entirely competent to give the best
recollection and belief in regard to the facts.

Q My best recollection is that it was in the spring of '67, either
February or March.

Q Did you know whether or not young Sam Webber married up there?

A Yes sir.

Q Did you know whether that was before or after they left there?

A That was before they left there.

BY MR. SMITH:

Q Mrs. Spears, did you know of Sam Webber, Sr., leaving that coun-
try and coming to the Cherokee Nation, or leaving that country for
the Cherokee Nation before the time you mentioned? A He came in the
fall I think, or summer sometime and got a claim I think.

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Q. Fall of that year? A. '66, and then come back.

Q. Now do you remember young Sam Webber's coming back with reference to the time Sam Webber Sr. came, who came first when they returned from this trip looking for claims you speak of? A. They came together.

Q. Are you sure of that? A. Yes sir.

Q. Where was Aaron Webber, did he come with them? A. I don't remember very much about him.

Q. You don't remember whether he did or not? A. No, I won't be positive whether he came with them or not, when they came after their claims.

Q. Do you know whether the older Sam Webber made the first trip to the Cherokee Nation after the war? A. Well it was in the fall of '66 I guess, about that time, either summer or fall.

Q. Either summer or fall? A. Yes sir, sometime along in the summer or fall.

Q. Might not it have been the late spring? A. No, it was not, because he made his crop there and then came afterwards.

Q. Made a crop in '66? A. '66.

Q. What did he do with that crop? A. I suppose he put it up here, disposed of it.

Q. Do you know whether he sold it or not? A. No I don't know whether he sold it or not, I think they fed it to their stock before they left.

Q. Where was Sam Webber Jr. in December 1865? A. I don't know where he was at.

Q. Where was he in January and February of '66? A. January or February of '66, I can't say.

Q. Where was he in July of '66? A. I don't know where.

Q. Do you have any recollection of Sam Webber Jr. coming there after his father in July '66? A. No sir.

Q. Do you have any recollection of Sam Webber coming there at any time with any hides, beef hides or any kind of hides? A. No sir.

Q. Where was the old man Webber living in the year of 1865? A. He was there living close to my mother's farm I speak of.

Q. In 175 steps of you? A. Yes sir.

Q. And you don't remember of his coming there at any time off of a trip except the time he came back with his father? A. He went to Fort Scott I guess, I never tried to keep any trace of him whereabouts.

Q. Now what makes you think it was in February or March '67 that these people left there? A. Well I have all reasons to believe that circumstances about it; well the old darkey had a cane patch and the darkey boys trapped on the land that winter.

Q. Who did? A. Those darkey boys, the Webber boys.

Q. Did what? A. Trapped for game that winter on the patch of cane where we had left the seed on the corn.

Q. That the winter that commences December and ends February, December, '66 and February 1867? A. It was all in that winter of course.

Q. Well the winter is pretty well over by the last day of January isn't it? A. Not always it ain't.

Q. Well the bigger part of it; the months is gone isn't it? A. No sir, not in our country.

Q. How many months do you have in the winter there? A. Some winters we have pretty hard and some winters we don't have much.

Q. So that as a matter of fact the fact that they trapped there on your place during the winter would not of itself lead you to believe that they didn't leave there until February or March? A. Well it was along toward spring they left; that is the best of my knowledge.

Q. Now in what way do you fix the date, you speak of your people there, is that the way you fix the date, by that? A. No sir, I fix it by memory, of course that is the way by the people, of this child's death; they were there; that is, the family were, I don't re-

member so much about the men; there was an old lady that moved down here with the men that sat up with my brother in his sickness.

Q Do you remember Sam Webber bringing you any sassafras and spice switch up there? A Yes sir.

Q When was that? A That was the first time they came down.

Q When was it? A That was in '66.

Q What month? A I don't know.

Q Can you state within two months of the time? A No I don't know as I could.

Q Can you remember that as well as you could the other time? A (No response).

Q You know that they were gone from there before the spring of '67, and it must have been in '66 they brought the sassafras? A Yes sir.

Q What was it, sassafras roots? A Yes sir.

Q That must have been in the spring? A I don't know.

Q Well they don't make sassafras in the fall? A We used it for tea

Q It was not in the spring at all Sam Webber brought the sassafras?

A No sir, it was not; he didn't bring it at all; the old gentleman brought it.

Q Well now as a matter of fact do you remember any one of these people being there at the time your brother was sick and died except the old woman Rhoda? A Well this family was there on the place; I don't remember them being there.

Q Well if they were you tell me who you saw except Rhoda the old woman? A Well I don't know as I remember. There was Johnson's wife, of course I don't just remember who was there, I was just a child then; there was a great many of the neighbors in, but I remember the old lady, sitting up with my brother at the time he was sick.

Q Now isn't it a fact that the old lady Rhoda is the only one you remember being there at the time? A No sir.

Q Now who else was there? A Chlora was there.

Q Well now name some other one, all you know that was there? A I don't know, I don't remember them, there was hardly any day but what they was there, some of them.

Q Well now what I want to know, who was there except this woman, Rhoda? A I don't know anything about that.

Q You don't know? A No sir.

Q How many trips did the Webbers make down here to this country, do you know? A They came once and got claims and came back and went again.

Q All you know of? A Yes sir.

Q If they made others you don't know it? A No sir, I don't know anything about any more trips they made.

Q Now when was this entry in this Bible, the date of your brother's death, made, was that made at the time? A Just when he died?

Q Yes? A I don't know as it was, I suppose about the time.

Q Well about when, do you know who wrote that? A I know who wrote that?

Q That is what I am talking about? A This was drawn off from another Bible.

Q You don't think that this entry, "Lizzie Bell Lewis, born September 1st, 1868" is in the same handwriting that this is do you?

A No sir.

Q You don't know that this is in the same handwriting? A No sir, it is not.

Q Now who wrote that date, October 23, 1866? A Park Nichols.

Q Well now can you tell me how nearly at the time of your brother's death that entry was made? A No sir, I could not.

BY MR. HASTINGS:

Q How long has this Bible been in your mother's possession? A I can't tell.

Q Has this entry been in here a long time to your knowledge? A Yes sir, it has been several years.

Q It was in there long before any investigation came up wasn't it?

Joe Ross (sup'1) 14

A Yes sir.

BY MR. SMITH:

Q Didn't Sam Webber and his father come down here in '65? A If they did I never missed them from home.

Q If they came here you didn't miss them? A No sir.

MARY A HICKS, re-called for additional cross examination.

BY MR. SMITH:

Q Mrs. Hicks, when was the entry upon this Bible you have with regard to the date of the death of your child made with reference to his death? A Well I don't just remember when it was; it was not long.

Q Was it put there at or about the time he died? A Why it was not long after he died.

Q Well give us your best judgment as to how long? A Well he died that fall and I don't know just how long it was.

Q Well was it as much as a month? A I won't say sir.

Q You can give some idea? A Well I tell you now, I won't say anything when I don't know anything.

Q I thought probably you might know better than I do, as I know nothing about it? A If I knew when I set it down I would recollect it. I have had a good deal of trouble about it.

Q I don't want to cause you any trouble about it, but I would like to know, it is some importance in this case? A There was a young man working for us that set it down.

Q What was his name? A His name was Nichols.

Q Do you remember how long after your child died before Nichols went to work for you? A No sir.

Q Well when it was set down what was it set down from, your recollection? A Why I had a husband then and all of us recollected it, we wouldn't recollect it?

Q I am asking you how long it was before this entry was made, if you can tell me? A I don't know when.

Q Do you think it was as much as two years? A No sir.

Q It was not? A No sir, if I should guess at anything about it I should think it was along in the summer sometime, I should think now, afterwards this young man was breaking prairie and of course he broke it in the winter.

Q Was this the first place it was made where it was made here in this Bible? A Yes sir.

MR. SMITH: If the Court please, I want to show by the title page of the Bible that it was not published until in 1869.

COMMISSION: The title page has been examined and it shows that the edition of the Bible in evidence was published in Philadelphia, in the year 1869.

BY MR. HASTINGS:

Q Do you remember, independent of the Bible, of the dates of your son's death? A Yes sir.

Q You didn't attempt to give distinctly when that entry was made in your Bible? A No sir.

Q You so stated? A Yes sir.

BY MR. SMITH: I object to that; it is leading.

BY MR. HASTINGS:

The Representatives of the Cherokee Nation ask that the testimony of Sam Webber, recalled, in the case of Jefferson Ross and others, Freedman D-272, be made a part of the record in this case.

COMMISSION: It is ordered that the testimony just taken be filed as supplemental testimony in Cherokee Freedmen Doubtful case 426, the same being the case of Chlera Grayson, and it will likewise be filed in Cherokee Freedmen Doubtful case 216, the case of Aaron Webber, and in Cherokee Freedmen doubtful case 350, the same being the case of Joe Ross.

It is further ordered that a set of all the testimony

given by Sam Webber in Cherokee Freedman Doubtful case 372, the same being the case of Jefferson Ross, be filed in case Cherokee Freedman D-350, of Joe Ross, and in Cherokee Freedman D-496, of Clara Grayson, and in Cherokee Freedman D-216, of Aaron Webber.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly rendered the proceedings and testimony in this case, as dictated to him from the stenographic notes of J. C. Starr, by said Ross, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green.

Subscribed and sworn to before me this November 16th, 1901.

J. C. Starr,

Notary Public.

SEAL.

File with Cherokee Freedman D-

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22d 1901.

In the matter of the application of Elizabeth Neigs for enrollment as a Cherokee Freedman; she being sworn by Commissioner C. R. Breckinridge, testified as follows:

- Q What is your name? A Elizabeth Neigs.
Q How old are you? A I don't know my age.
Q About how old are you? A I was four years old when we came here with the old settlers.
Q Was that when the Cherokees first moved to this country from the old nation? A Yes sir.
Q That would make you about 71 years old now wouldn't it? A Yes sir I guess so.
Q What is your post office? A Centralia.
Q In what district do you live? A Coowasecawee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir, I do.
Q Who do you want to have enrolled besides yourself? A My children.
Q Have you any children under twenty-one years old? A No sir.
Q They will have to apply for themselves then. A (No response).
Q Have you a husband? A No sir he is dead.
Q Then you only apply for yourself? A Yes sir.
Q Have you lived here ever since you came with the Cherokees in 1837? A Yes sir.
Q How long have you been called Neigs? A Ever since I was nothing but a girl.
Q Were you married to a man named Neigs? A Peter Neigs.
Q Is he dead? A Yes sir, five years ago in September.
Q Was he a Cherokee Freedman? A Yes sir.
Q Were you a slave in the Cherokee Nation before the war? A Yes sir.
Q To whom did you belong? A Reuben Daniel.

The 1880 authenticated roll of the Cherokee Nation examined and the applicant's name not found thereon.

- Q Are any of your family on that roll that you know of? A Yes sir, Alice Sanders is on it, she is a daughter of mine, Alice is.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's daughter identified thereon as follows:

Page 175, No. 2658, Alice Sanders, Coowasecawee district.

The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

- Q Did you draw your Cherokee strip money? A Yes sir.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:

Page 170 No. 2312, Alice Neigs, Coowasecawee district.

- Q Did you ever go by the name of Daniel? A Yes sir that was my owners.

The Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 182, No., 40, Elizabeth Daniel.

NOTE: Wife of Peter Meigs.

Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon again as follows:
Page 131, No. 2748, Elizabeth Meigs, Coowaseeowee district.

Q Where were you during the Civil war, did they take you out of the Cherokee Nation? A I was at Fort Scott during the war.
Q When did you come back? A In the winter of '65.
Q What time in the winter? A Well it was in the winter.
Q Was it before Christmas, or after Christmas? A My husband was down here in the Christmas.
Q When did he bring you down? A In the winter after he went from here on Big Creek.
Q He came ahead of you then? A Yes sir.
Q What time did he leave Kansas? A I cannot tell you when he first came.
Q Did he leave Kansas before Christmas? A Yes sir he came here in the winter of '65.
Q Did he leave Kansas in the winter? A Yes sir.
Q Was he down here when Christmas came? A Yes sir.
Q Do you know how long it was before Christmas before he started to come here first? A No sir I dont.
Q How long was it after Christmas before he got back to you in Kansas? A Directly after Christmas.
Q How long after Christmas before you and he started down here together? A Directly after.
Q He spent Christmas that year in the Cherokee Nation by himself?
A Yes sir my husband did.
Q What members of your family came down with you and your husband?
A These children.
Q Did you bring your child Alice Sanders with you? A Yes sir.
Q All the children? A Yes sir.
Q Can you explain why you are not on the roll of 1890? A No sir.
Q Do you know why you are not on that roll? A No sir I dont know nothing about the rolls.

By W. W. Hastings, Cherokee Representative:

Q Auntie, what provisions did your husband make after he had been to the Cherokee Nation, to come down here with his family? Did he sell off what you had in Kansas? A Yes sir what little we had, we never had much to sell.
Q Where were you living in Kansas then? A Fort Scott.
Q About how long did it take him to get ready to come to the Cherokee Nation after he went back up there? A No time after he got back till we all came here.
Q Was it as much as a couple or three weeks? A Yes sir I guess so.
Q And then you started down here? A Yes sir.
Q Was it in the spring of the year when you reached here? A No sir in the winter.
Q The leaves were not budding out then on the trees when you and your husband and children got here? A No sir there weren't no buds nor budding on the trees, it was winter I tell you.
Q You all came in wagons did you? A Yes sir.
Q Who came with your husband down here when he first came? A One man Mike Sanders.
Q Who else? A Houbert Sanders.
Q Who else? A Daniel Sanders.

Q Any one else that you remember? A There was little Sam Webber and old man Sam Webber.
Q Any other Webber's? A Aaron Webber.
Q Did any one else come down? A I don't remember any one else now.
Q Were you there when they started down? A Yes all come together I am a telling you.
Q But I mean when your husband come on in advance of you. Who come with him then? Did these parties that you have named come with your husband when he first came down? A Yes sir.
Q You were at Fort Scott then? A Yes sir.
Q And they all started together? A Yes sir.
Q These that you have named are all the you can think of at the present time? A Yes sir.
Q Did they come in wagons or on horse-back that time? A They come in wagons when they first come.
Q And after Christmas you all come down did you? A Yes sir.
Q Did you come in wagons then? A Yes sir.
Q Did you come by a little place called Chatopa? A Yes sir.
Q Where did you come to in the Cherokee Nation? A I come right where I am living yet when I come to the Cherokee Nation.
Q And you are living there yet? A Yes sir, that old house was built in '65.
Q What house? A That one we is living in.
Q And you are living at the same old place? A Yes sir, in the same old house.
Q On what creek is that? A Big Creek.
Q Was any one living on Big Creek when you came there besides your own crowd? A No sir, down on Verdigris there was some living.
Q You were the advance family or crowd that came to Big Creek were you? A Yes sir, we was the advance guard.
Q Did you see any one from Chatopa along the road through the Nation to Big Creek when you came there? A No sir.
Q Did these people who first came down with you husband return with him and then come down again when your family all come after Christmas? A Yes sir.
Q You all come back together? A Yes sir.
Q Now Auntie, did any additional people--other families come down with you? A I don't know who all come down. I am just a telling you what I know.
Q There was Daniel Sanders, and Reuben Sanders and there was Mike Sanders, and Sam Webber, old and little Sam, they all came with you? A Yes sir.
Q Did Aaron Webber come? A Yes sir.
Q And your family? A Yes sir.
Q Are there any that I missed? A That is all that I gave you.
Q Is that all that come? A Aaron Bright come with us.
Q Who else? A (No response).
Q Were there any others at all? A I am a telling you all that I can think of now, it has been a long time for an old woman like me to remember all that come.
Q You come to the place that you are living at now did you? A Yes sir and has lived there ever since.
Q Have you any Cherokee neighbors there now that were old residents? A No sir, there was some lived on Verdigris when we come there.
Q Who? A Jamie Riley was there on Verdigris, but not where we was living.
Q How far from where you settled? A I don't know how far.
Q Was it as much as 4 or 5 miles? A As much as ten miles if you want to be right.
Q Were they the closest residents to you at that time? A Yes sir.
Q Were there any Delaware Indians there when you come there? A No sir I never saw none.

Q Any Oneas? A No sir, never saw none.
 Q You didn't see any body on Big Creek, neither white or black, except those that went with you? A That is all.
 Q And you have been there ever since? A Yes sir, ever since we moved there.
 Q You say your husband Peter Helga built a house there? A There a log house there and he bought the house and we moved to it.
 Q Who built the house if you know? A Henry Harold.
 Q Was he a colored man? A Yes sir.
 Q Is he living? A I don't know if he is or not.
 Q Some 3 or 4 years after you came down here your husband went to Tahlequah before the court, didn't he, to see about his citizenship?
 A Yes sir.
 Q They didn't admit him then did they? A I don't know sir.
 Q You know he was disputed? A I don't know nothing about it, I never paid any attention to any such things as them then.

By the Commission:

Q Were you ever admitted by the Cherokee or United States court for Commission? A I don't understand what you say.
 Q Did you ever have your right to be enrolled as a Cherokee citizen before any kind of a court? A Yes sir my man enrolled us before he died.
 Q I mean in court? A That is what I am a telling you.
 Q You know what a court is don't you? A Yes sir.
 Q What court do you know? A Kerna Clinton court.
 Q Any other court that you know of? A I know of the Wallace court.
 Q Any other? A No sir.
 Q Did he ever have anything done about his case by the Cherokee Council? A I don't know what was done, my man went there every year or two but I don't know what was done there.
 Q How long did it take you and these people to come from Kansas to the Cherokee Nation? A I don't know how long we were on the road.
 Q Have you any witnesses with you that you want to introduce?
 A Yes sir.

RUBEN SANDERS, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the applicant.
 (Examined by the Commission).

Q What is your name? A Ruben Sanders.
 Q How old are you? A I suppose I am about 50.
 Q What is your post office? A Centralia.
 Q How long have you lived in the Cherokee Nation? A All my life.
 Q Were you a slave in the Cherokee Nation when the Civil war broke out? A Yes sir.
 Q Who did you belong to? A James Sanders.
 Q Were you taken to Kansas during the war? A Yes sir.
 Q You have a wife named Alice have you? A Yes sir.
 Q How long have you and she been married? A About 30 years perhaps more.

The 1890 authenticated roll of the Cherokee Nation examined and the name of the applicant's son-in-law identified thereon as follows:
 Page 175, No. 2857, Ruben Sanders, Coconawadoc District.

Q Did you ever have any case on the question of your citizenship before any court? A Yes sir.
 Q What court? A The Cherokee court.
 Q Is that the only one? A Yes sir that is the only one; I was admitted by the Cherokee court.

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Q Where was it sitting? A At Tahlequah.
 Q In what year was that? A I cannot tell what year it was.
 Q Your citizenship had been disputed had it? A Yes sir.
 Q When was your right to citizenship first disputed? A It was during the time that Thompson Oochelita was chief.
 Q Was that before the 1880 roll was made? A Yes sir.
 Q Did the court decide in your favor? A Yes sir.
 Q Was there any dispute made then about your being put on the 1880 roll? A No sir.
 Q Were you required to show a copy of the decision of the court in your favor when you went to enroll in 1880? A No sir.
 Q Did they ask you any questions when you went to be enrolled in 1880? A No sir.
 Q Where did they take your name? A I was in Gooseneck Bend, at the time.
 Q Do you know the applicant Elizabeth Meigs? A Yes sir.
 Q Your wife is her daughter? A Yes sir.

By W. W. Hastings:

Q Peter Meigs' citizenship was disputed the same time yours was? A Yes sir.
 Q Did he go before the court at the same time? A No sir, I think not.
 Q His wife's citizenship was also disputed? A I judge so.
 Q Did she go down before that court? A Not to my knowledge.
 Q Did he go down to Tahlequah to the court before that time? A Yes sir I think he went down to the Bob Daniels court, think he went with my father.
 Q Was Bob Daniels Chief Justice of that court? A Yes sir.
 Q Just a few years after the war? A Yes sir.
 Q In '71 wasn't it? A Yes sir.
 Q Was any action taken in that court? A I don't know.
 Q You were not there yourself? A No sir.
 Q You were about 15 or 16 years old when you come back? A Yes sir I guess so, I don't exactly know how old I was.
 Q You were not married then? A No sir.
 Q How long long after you got back before you married? A Not very long after I got back.
 Q Did you marry on your way down here? A No sir.
 Q How long had you been here before you married? A I have been married twice.
 Q How long had you been here before you married the first time? A Not very long.
 Q As much as a year? A May be so.
 Q Is that your best judgment? A My best judgment is perhaps that it was that long.
 Q When were you married to your present wife? A Upwards of 30 years, or so.
 Q How long did you live with your first wife? A Not very long, she died.
 Q A year? A Perhaps it was, maybe a little longer.
 Q Then you married your present wife? A Yes sir.
 Q When you came to the Cherokee Nation how did you come the first time? A In wagon.
 Q The first time? A Yes sir.
 Q Who came with you? A Several were on horse-back; it is beyond my knowledge how many there were.
 Q Tell all you can remember? A We made a trip in August and one in October and then we moved here in the winter.
 Q Did you come in August? A Yes sir.
 Q Who came with you then? A Some of this family, Peter Meigs and got his place; the heads of these families.

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Q Who else came with you? A My brother Dan and the Whitwires.
 Q Which ones? A Several.
 Q Which ones? A Mose and Dennis, and the Webbers.
 Q Name them? A Old man Sam and younger Sam and little Aaron, and a man named Abe Thurman, and Abe Hair, and I don't know who else, I don't know who all came.
 Q Who came when you came in October? A I don't know who all came then, some of that same crowd and some more came in October.
 Q Do you remember any additional persons? A To the best of my knowledge the Smith family.
 Q What was his first name? A Old man Caesar Smith.
 Q You came in both of the detachments yourself? A No sir.
 Q Which one did you come in? A I came in August.
 Q You didn't come in October then? Yes sir, I came when we first came; we brought some of our farming utensils when we came in August and left the on the creek.
 Q On Big Creek? A Yes sir.
 Q Where Mrs. Meigs lives? A Yes sir.
 Q And you returned in October, how long did you stay in October.
 Q We all didn't return in October, we didn't all go back, some staid in August, some staid and some came back; some of us brought our things with us and some came to look out homes, we all come with the intention of making our homes here.
 Q When did you afterwards move here the last time? A In the winter of '66 is when we came down here the last time.
 Q What time in the winter? A Long in January.
 Q You mean in '67.
 Q No in the winter of '66.
 Q If you came here in the August and October of '66 and then returned for your families and came back here in the following winter, in the following January or February, that would be in '67? A I don't understand you; we came here in the winter of '66 is what I said, in January after we had first been here in August and October, we came right to where Mrs. Meigs is living now.

By the Commission:

Q You say you first came here in August of '66? A Yes sir.
 Q That was your first coming was it? A Yes sir.

By Hastings:

Q When you moved here permanently, tell all that you possible can remember of who came with you in the January or February following?
 A This family is one, here, the Meigs family, Peter Meigs, Elizabeth Meigs, Mary Meigs, George Meigs, Simon Meigs, Harriett Meigs, Perry Meigs, that is all that I can remember of that family.
 Q I don't mean only of that family, there were other families were there not? A Old man Billie Dorman.
 Q Who else? A He had several children.
 Q The heads of families I mean? A Fannie Sanders; I don't recollect them all; I don't know as I can call the names of all of them.
 Q Were any of the Webbers along? A Yes sir.
 Q Old man Sam and young Sam? A Yes sir; I would not pretend to call them all over as I had forgotten them Webbers and so I can't remember for if I has forgotten them I don't think I can remember any of the others.

By the Commission:

Q Did old man Sam Webber come? A Yes sir.
 Q Did his son Sam come? A Yes sir.

Q Dont you remember any one else? A Rachel Weaver.

Q Do you think of any one else? A No sir.

Q You know that it was a mooted question before the Earns Clifton Commission as to who came at this time and as to when you came? A. I havent been interested as to anyone except for myself.

Q You know that there is a question about who came dont you? A Yes sir I guess I do.

Q You say you came to Big Creek? A Yes sir.

Q Did you come by the way of Chetopa? A Yes sir I guess that we did, I dont know that they called it Chetopa then, there was a house or so there.

Q Did you cross the river there? A What river.

Q Neosho? A No sir.

Q You didnt cross at the Gilstrap ferry? A No sir we crossed 20 or 30 miles from there.

Q You came through what is Chetopa and came on west through the prairie? A We may have.

Q You were in Wagons? A Yes sir.

Q Were there any persons living on any of that country from Chetopa west, out to Big Creek except your own people who had come in August or October before that? A I have no knowledge of any one living there before that.

Q Were there any houses there except those that your crowd built? A I dont know of any houses, but there were foundations for them on Big Creek.

Q Then the houses were not built before you moved there with your families? A Yes sir some were, there were logs on some up 8 or 10 logs high.

Q Then there were none really completed until you moved there with your families? A No sir.

Q Did you make a crop there the first year that you moved there? A Yes sir as near as we could with one horse plows and hoes.

Q Do you know Jim Martin? A Yes sir.

Q How far does he live from you now? A 4, 5 or 6 miles.

Q Was he living there when you people moved there? A No sir.

Q He had a brother names William Martin? A Yes sir.

Q Was he living out there then? A No sir.

Q There was an old man by the name of Carter living out there then, wasn't there? A No sir; there was an old man named Carter living 20 miles perhaps from there quite a while after we come there.

Q Was his name Dick Carter? A I think it was.

Q You say he lived some 20 miles from there? A Yes sir 20 miles below, on the Verdigris river. He come some time after.

Q Do you know if that ferry that you crossed the Neosho river was called Gilstrap ferry? A No sir we never crossed on Gilstrap ferry.

Q There were no farms made there when you passed through--no citizens had farms up there? A No sir none that I saw.

By the Commission:

Q You stated, I believe, that the first time that you come to the Cherokee Nation after the Civil war closed was in August of '66?

A Yes sir.

Q For what purpose did you come back then? A To make it our home; the proclamation had told us to come home, that it was open for us to come.

Q You didnt bring your families with you then? A Only part of them and some things that we had.

Q Part came with their families and part came to prepare for their families? A Yes sir.

Q What men were with you on that first trip? A This family, the Meigs family, not all of this man's boys, but the old man Meigs, Peter Meigs.

Q You didn't bring your family with you at that time did you? A No sir.

Q Did Peter Meigs bring any of his family then? A No sir.

Q Did you go back to Kansas after that? A Yes sir.

Q When did you bring your family? A Our family came in October.

Q When did Peter Meigs go back to Kansas? A I think with my father

Q You came yourself in August? A Yes sir with my father.

Q You went back to Kansas after that? A Yes sir my father went there and I went with him.

Q When did Peter Meigs go back? A He went with the crowd.

Q Did he go with you and your father? A Yes sir.

Q Then you returned to the Cherokee Nation again in October? A Yes sir.

Q Did your father come with you? A Yes sir.

Q Did all the members of your own family come with you? A No sir, not all of them come in October.

Q Where was Peter Meigs in October? A He come with us at each trip

Q Did he go back to Kansas with you? A Yes sir.

Q And then you came back here to the Cherokee Nation in October? A Yes sir.

Q Did Peter Meigs come back with you to the Cherokee Nation in October? A Yes sir.

Q That made the second time that Peter Meigs had been here? A Yes sir.

Q Where was Peter Meigs in Christmas of '66, do you know? A No sir I don't exactly know where he was in Christmas of '66.

Q When Peter Meigs got back to the Cherokee Nation with his family did he settle in the Cherokee Nation near your family? A Yes sir.

Q How far apart? A Two or three hundred yards apart.

Q Did he then go back to Kansas for his family after he made that October trip with you? A No sir he went back after something to eat.

Q You stated that he brought his family the last time in February, when did he go back after his family? A The third time he brought his family.

Q You stated here then? A Yes sir.

Q When did you come? A In the winter.

Q Was it in February? A Must have been in December.

Q What about that February trip you spoke of? A It was in the winter some time. Snow on the ground.

Q Did your father come at that trip? A Yes sir.

Q Your mother? A Yes sir.

Q Peter Meigs? A Yes sir.

Q His wife? A Yes sir.

Q That was your third trip? A Yes sir.

Q Was that your last trip? A Yes sir.

Q When did your wife Alice come? A Come then.

Q On that third trip? A Yes sir.

Q You say Peter made all three trips with you? A Yes sir.

Q Every time you came he came? A Yes sir.

Q Every time you went back to Kansas he went back? A Yes sir, that is to the best of my knowledge.

Q Did he go there by himself? A No sir.

Q Do you remember distinctly that you came here in August the first time? A Yes sir.

Q Do you remember distinctly that Peter came with you in August and October? A Yes sir.

Q Do you remember distinctly that he come with his family when you made your third and last trip? A Yes sir.

Q With his family? A Yes sir.

By Com'r Breckinridge,-

The applicant states that she was a slave in the Cherokee Nation from the time the Cherokees moved to the Indian Territory in 1837 until she was liberated by the Civil war. She is identified on the Kerus-Clifton roll and on the Wallace roll, but not on the 1880 roll or upon the roll of 1896. The testimony indicated that her husband first returned to the Cherokee Nation after the war, coming from Kansas in August of 1866, that he came at that time to prepare for the bringing of his family back to the Cherokee Nation. He is now deceased, but he and the applicant were married at that time and had several children. The testimony further indicated that the applicant's husband made a trip back to Kansas in October, but not with a view of relinquishing his purpose to bring his family to the Cherokee Nation, but apparently to get provisions. It further appears that he returned to the Cherokee Nation with his wife and children in the following month of February. There is some conflict of testimony in regard to this matter, but so far that is the weight of the testimony. It also appears that proceedings may have been had by some Cherokee Court, either a citizenship court or the Cherokee Supreme Court, prior to the date of the Chambers Court, affecting the citizenship of this applicant and her husband and all those who may claim through them. It will be necessary to make ~~further~~ further inquiry upon this point, and if possible to get an official copy of the record. Under these conditions, the applicant will now be listed for enrollment on a doubtful card and the final decision of the Commission will be made known to her at her post office address.

#####

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above case and that the foregoing is a full, true and correct transcript of his stenographic notes therein,

Chas. von Weise.

Subscribed and sworn to before me this the 29th of May, 1901 at
Chelsea, I. T.

T. B. Needles,

Commissioner.

~~CONFIDENTIAL~~

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22, 1901.

In the matter of the application of Elizabeth Meigs for enrollment as a Cherokee Freedman;
REUBEN SANDERS, having been before sworn by Commissioner Breckinridge, testified as follows:

Q Give your name? A Reuben Sanders.
Q How old are you? A I am only about 50 past.
Q You gave testimony just now in the case of Elizabeth Meigs?
A Yes sir.
Q And you want to correct a statement you made there? A Yes sir, I wish to make the statement that it was in January, 1867 when we made the last move, about the first of the month; it was the following August in 1866; we had been here in August you know, in '66 and in October, and we made the last move in '67, January, and I put it down February I think; I wanted to say January.
Q How do you find out now it was January instead of February?
A It was just after Christmas that we was on the road coming down.
Q How long after Christmas? A Perhaps a week after Christmas; my reason for stating this is this, along Christmas- a few days before Christmas there was a man got killed named Hayford, and there was a gentleman killed him, a colored man killed that man Hayford, a man by the name of Mackey, and we started then right shortly after that killing was, and the parties followed us, thinking he was with us, in our crowd, that was just the following- a few days after Christmas, a week, or after Christmas.

Examined by Cherokee Representative, W. W. Hastings:

Q How old are you? A Well I just don't know my age exactly, I suppose that I am about 50 years old; something in that line.
Q Where did you say that killing took place? A In Kansas.
Q Fort Scott? A Yes sir.
Q And the man that was accused of the killing was named what? A Named Mackey.
Q You remember his first name? A No.
Q You remember the man who was killed, you get his first name? A No sir I don't not.
Q Did you ever learn afterwards whether or not that man was caught, do you know? A It seems to me like I learned afterwards that the man was caught. No I don't know nothing about that part of it.
Q You know what county Ft. Scott is in? A No sir.
Q Who called your attention to this ~~man's~~ error? A I thought so myself; I called my own attention to it; I was studying over it, I did.
Q You know now it was only a few days after Christmas? A Yes sir, a few days after Christmas.

Com'r Breckinridge: This statement will be filed as supplemental in the Elizabeth Meigs case, to be considered in connection with the former statement of the witness, and the other evidence relating to the date in question.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.
M. D. Green.

Subscribed and sworn to before me this May 23, 1901.

C. R. Breckinridge,

Commissioner.

File with Cherokee Freedman D-391, Elizabeth Meigs

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 15, 1901.

In the matter of the application of Elizabeth Meigs et al. for
enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:

L. T. Brown, agent for the applicant;
J. S. Davenport, of counsel for Cherokee Nation.

L. T. Brown: I would like to have the record show that
sometime next week the applicant intends to introduce as wit-
nesses in this case, Aaron Wright, Reuben Sanders, Dan Sanders,
and Sam Webber, for the purpose of showing that all the appli-
cants in this case returned to the Cherokee Nation during the
time prescribed by the Nineth Article of the Treaty of 1866.

Commissioner Needles: Hasn't that already been shown?

L. T. Brown: And that they have had a continuous resi-
dence in this country since that year.

Commissioner: Well, that is all right.

ROBERT MEIGS, being duly sworn by Commissioner Needles, tes-
tified as follows.

Mr. Davenport: What is your name? A Robert Meigs.

Q Where do you live? A I live five miles southwest of Tahlequah.

Q What is your postoffice? A Park Hill is my postoffice.

Q How old are you? A I am 56 my next birthday.

Q How long have you lived in the Cherokee Nation? A I have lived
here all my life except a little while time of the war, from '84 to
'66.

Q Did your people own any slaves before the war? A Yes sir.

Q Do you know whether they owned a woman by the name of Elizabeth?

A No sir.

Q Do you know whether or not they owned her mother, or anybody of
the family? A Elizabeth, no, sir.

Q Well, did you know Peter Meigs? A Yes sir.

Q Do you know what his wife's name was when the war broke out?

A Betsy they called her.

Q Well, was she living, Betsy, at the time the war broke out?

A Yes, sir.

Q Well, did you ever know her by any other name than Betsy?

A Bettie.

Q Where was Peter Meigs and his family at the breaking out of the
war? A Well Peter was with us at home at the breaking out, but he
and his wife was up there somewhere near the Dutch Hills on the
Arkansas line.

Q Well I wish you would look at that woman there and see if she is
the woman you knew as Betsy or Bettie or whatever you knew her by
(indicating applicant)? A Yes, I think that is the one, I have
never seen her but once.

Q That is since the war? A I just saw her once in my life and
that was time of the war, after the war.

Q Did you ever see Peter Meigs and his family after the war? A Yes
sir, saw Uncle Peter.

Q What year was that? A Sometime after '71.

Q What were the circumstances as to your seeing him or meeting him?

Q Why he had to come down to Council to see about fixing up his
rights, and he came down to visit my brother John, we were right
together, and I went up there to see him.

Q Did you have a conversation with him or did he have a conversation with your brother John in your hearing where he and his wife were present in regard to his right or when he returned? A Yes sir.

Q Give that conversation as near as you can.

L. T. Brown: The applicant objects to this witness relating any conversation he might have had with Peter Meigs, for the reason that Peter Meigs is dead and cannot affirm or deny this statement.

Commissioner: The objection will be noted and the witness will answer.

Q Go ahead and state what the conversation was between you? A He was talking about returning, he said he came down here in the fall of '66 and started to make him a place somewhere on Big Creek and his family wasn't with him; and afterwards when he returned why it was too late when he brought his family.

Q Did you ever see any other members of his family excepting he and his wife at the time you speak of? A No, sir, just him and his wife is all, I wasn't acquainted with the children.

Q Do you know where he was living at that time? A He said he was living on Big Creek somewhere.

Q That was in what year? A This was after '71 sometime, I don't know just what time it was.

By L. T. Brown: Now what did you say that conversation was, Mr. Meigs? A Why he said that he had come down to make him a place somewhere up here on the Verdigris, or Big Creek, and he started to make him a cabin, and put up the wall, and then went back for the family.

Q He told you that he came down and started him a little cabin with the intention of making him a home in the fall of '66? A He said he came down and started to make him a home.

Q In the fall of '66? A Yes, in the fall of '66.

By L. T. Brown: Well, what did he do after he started that home, did he say, after he started that cabin? A Went back after his family.

Q And he stayed up there till when he came back down here it was too late, is that what he told you? A Yes, sir.

L. T. Brown: How long did he tell you he stayed up there in Kansas after he made the first trip? A He didn't state, I believe he gave but one date.

Commissioner: This testimony will be made part of the record in the case at bar, and also part of the record in D case 394, D-396, D-398, D-404, D-402, D-401, D-407, and D-775, and the sub-references.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 7th of November, 1901.

T. B. Needles,

Commissioner.

~~File with Cherokee Freedmen D-391, Elizabeth Meigs.~~

Department of the Interior
Commission to the Five Civilized Tribes
Vinita, I. T., October 19, 1901.

In the matter of the application of Elizabeth Meigs et al. for enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of the applicant.

Appearances:

L. T. Brown, agent for applicants;
L. D. Bell, of counsel for Cherokee Nation.

DANIEL SANDERS, being duly sworn by Commissioner Needles, testified as follows:

By L. T. Brown: State your name? A Daniel Sanders.

Q What is your age? A About 59.

Q What is your postoffice address? A Centralia.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Does your name appear upon the authenticated roll of 1880?

A I think it does.

Q You know Elizabeth Meigs and George Meigs? A Yes, sir.

Q What relation is George Meigs to Elizabeth Meigs? A Her son.

Q Did you know Peter Meigs during his life time? A Yes, sir.

Q Do you know whether Peter Meigs, Elizabeth Meigs, and George Meigs were out of the Cherokee Nation during the war? A Yes, sir.

Q When did they return to the Cherokee Nation? A They came in '66.

Q With whom did they return? A They came with me and my father and the Webbers.

Q Have they had a continuous residence in the Cherokee Nation ever since? A Yes, sir.

Mr. Bell: When did you come to the Cherokee Nation yourself after the war? A In '66.

Q What time of the year? A First of December.

Q What was the first time? A Yes, sir.

Q When did you make your second trip? A Along in first part of January.

Q That was January, 1867? A Yes, sir.

Q Now which one of these trips was it that Peter and his family came with you? A They came both times.

Q Came both times? A Yes, sir, the old man came the first time and then the last time the family came.

Q Peter came with you alone the first time? A Yes, sir.

Q Then the second time he brought his family? A Yes, sir.

Q What did his family consist of? A Mary, George, Alice, Harry, Simon, and Perry.

Q Then was his children? A Then was his children.

Q Well he had his wife Elizabeth with him, didn't he? A Yes, sir.

Commissioner: This testimony will be filed and made part of the record in the case at bar and part of the record in D-394, D-396, D-398, D-401, D-402, D-404, D-407, D-775.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this 17th of November, 1901.

T. B. Needles,

Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and the same is a true and complete copy of the original.


Ray Palmer

Subscribed and sworn to before me this the 8th day of August, 1902.


Notary Public.

To be filed with _____

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., October 27th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Joe
Ross C.F.D. 350.

Appearances:

W.W. Hastings, for the Cherokee Nation.
Mallett & Smith for the applicants.

BY MR. HASTINGS: The Representatives of the Cherokee Nation ask that the testimony of Sam Webber, re-called, in the case of Jefferson Ross, and others, Freedmen D 972, be made a part of the record in this case.

COMMISSIONER - - - It is further ordered that a set of all the testimony given by Sam Webber in Cherokee Freedmen Doubtful case 872, the same being the case of Jefferson Ross be filed in the case Cherokee Freedman D 350, of Joe Ross, and in Cherokee Freedmen D 496, of Clara Grayson and in Cherokee Freedmen D 216, of Aaron Webber.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 26, 1901.

In the matter of the application of Jefferson Ross for the enrollment of himself and four children as Cherokee Freedmen.

Appearances:

Mallett & Smith, attorneys for applicants;
W.W. Hastings, counsel for Cherokee Nation.

Sam Webber, being duly sworn by Commissioner Needles, testified as follows:

Mr. Smith: What is your name? A Sam Webber.

Q How old are you? A About 88.

Q Where do you live? A I live about two miles west of here.

Q How long have you lived in the Cherokee Nation? A I was born and raised here, and after the war came back.

Q Do you know this applicant, Jefferson Ross? A Yes, sir.

Q Were you acquainted with him before the war? A No, sir, I wasn't acquainted with him before the war.

Q When did you first know him? A I got acquainted with him just after the war.

Q Where? A Here in the Nation.

Q About what part of the Nation? A He came to my house thereon Big Creek in the Nation.

Q What time? A Along in the spring of '67.

Q Do you know of your own knowledge when he first came back to the Territory after the war? A No, sir, I don't know of my own knowledge.

Q Do you know where he was living at the time he came to your house?

A He had been working on Moon Creek he claimed and he was on his way hunting his sister.

Q Did you ever see him after you saw him that time? A I put him on the trail down to his sister's and I never saw him for quite a little bit from that, when I saw him he was there on Lightning Creek.

Q Did you see him then after that at his sister's? A I saw him then often and on for near about two years I guess.

Q Where? A There at Lightning Creek.

Q In the Cherokee Nation? A Yes, sir.
 Q Was he a married or a single man at that time? A He was a single man to my knowledge.
 Q Do you know where he is living now? A No, sir, I don't.
 Mr. Hastings: You saw him around here for about two years?
 A Yes, sir.
 Q Then how long was it till you saw him again, Sam? A I remember after that of seeing him on Big Creek again.
 Q How long after that? A Must have been six months or a year after that I met him again there.
 Q You know where he was married? A No, sir, I can't tell you.
 Q Was he married at that time? A If he was I didn't know it.
 Q Did you know his wife? A No, sir, I don't know his wife.
 Q Did you ever see his wife? A Not to know it was her.
 Q Has this man ever kept house to your knowing? A When I saw him he was to his sister's.
 Q What was her name? A Katie Thornton.
 Q You never saw him in a separate, independent house, keeping house with his family? A No, sir, never did.
 Q What is his occupation? A I can't tell you.
 Q Did you ever see him making a crop anywhere? A I never saw him farming, I have seen him working for people around here.
 Q He never made a crop to your knowledge? A No, sir, not to my knowledge.
 Q Has he got any special occupation like a carpenter? A Not as I know of.
 Q What is Katie Thornton's husband named? A Henry Thornton.
 Q Was that her husband at that time? A Yes, sir.
 Q With whom does this man stay now? A I don't know that.
 Q You never saw him anywhere except to his sister's? A That is all I have noticed him.
 Q Did he have any children when you saw him? A I never seen them if he did.
 Q You don't know where his family were, if he had any? A No, sir.

Sam Webber, re-called, testified as follows:

Mr. Hastings: Mr. Webber, when were you first married? A When I first married, I married just a short while after the war, I don't remember what year.
 Q Before you came down here? A After I came down here.
 Q Well, about how many years after you came down here? A It wasn't a year I guess after I came here.
 Q Well, you know what time of the year you were married? A I was married along in the winter.
 Q Was that the same winter you came, or the winter of '67? A It was along about, it thowed in '67, it was after Christmas.
 Q You mean in January of '67 or the last part of '67? A It was along after Christmas, I don't remember the date.
 Q What was your wife named? A My wife at that time was Rinda Martin.
 Q When did you commence keeping house? A I went in my house when I first came here.
 Q You and your wife keeping house separate and apart? A I was keeping house when I was single, I built us a little house, and was living in there.
 Q What time in the year did you and your wife move into that house? A We moved right in the house after we were married.
 Q And you don't remember when that was, what time of the year? A Along after Christmas, I was already in the house.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original transcript.

(Signed) M. D. Green.

Subscribed and sworn to before me this November 16, 1901.

(Signed) W. C. Starr,
Notary Public.

(SEAL)

I, A. R. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I made the foregoing copy and that the same is a true and complete copy of a certified copy of the original transcript.

A. R. Cheever

Sworn to and subscribed before me this 11th day of August, 1902.

Wm. C. Jones
Notary Public.

Supl.-C.F.D.

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1932.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
SAMUEL BECK as a Cherokee freedman, introduced on part of the
Cherokee Nation:

Appearances:

L. T. Brown, Vinita, I. T., Agent for Applicant;
S. S. Davenport, Cherokee representative.

L. B. BELL, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A L. B. Bell.
Q Where do you live, Mr. Bell? A Vinita, Indian Territory.
Q How long have you lived in and near Vinita? A Oh, since '67,
including most of '67.
Q Was there any railroad running in or through Vinita when you
first moved into that community? A No, sir.
Q When did the railroad first come through that country, Mr. Bell?
A In 1870.
Q You know this applicant, Sam Beck? A No, I don't know him.
Q Don't know anything about him? A No, sir.
Q Was you living in that country before the railroad started from
Kansas through the Indian Territory; that is, the M. K. & T?
A Well, I will tell you what I know about the railroad; The rail-
road come through the country in 1870, and on the application of
the Cherokee Nation, a complaint to the Secretary of the Interior,
they stopped building and during the session after 1870 of the
National Council of the Cherokee Nation, they passed an Act there,
it is dated the 14th of December, 1870, authorizing the furnishing
of cross-ties to the railroad, and agreeing that the railroad could
go through. The secretary hadn't determined which had the right-of-
way. They had begun it in 1870 and the M. K. & T. got the right-of-
way, and then they authorized the selling of cross-ties, and I went
to Choctaw and made a contract with the Company for cross-ties
enough to build from the Kansas line to Fry's Creek and sublet it.
Mr. Martin was one I sublet to, that was in 1870 that contract
was made, I don't recollect the exact date. Well, just a few days
following that we began getting cross-ties and then worked on down
to the Creek Nation. That was the first railroad built in the
country and the first cross-ties was cut on the railroad in this
country.
Q You don't know anything about the wife of Beck or anything about
them? A No, I don't.

C. D. LARKHAM, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A C. D. Larkham.
Q Where do you live? A At Tahlequah.
Q How long have you lived in the Cherokee Nation?
A I was born and raised here; never was out except during the war.

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Q. Where did you live before moving to Tahlequah? A. Lived on Grand river east of Chetopa about ten miles.

Q. Do you know Samuel Beck, the applicant in this case, or his family? A. No, sir.

Q. Where were you living along the latter part of the sixties or early part of the seventies? A. On the Grand river.

Q. Do you know about this year the M. K. & T. railroad built from Chetopa, Kansas, down through the Territory? A. It must have been the latter part of '71 or '72.

Q. Had you any connection with it any way that makes you remember it? A. Yes, sir, I had a contract on the road, beginning at Bryant's Lake, down this way.

Q. And that was in what years it built down there? A. The ties was put in there in the spring, latter part; it was in the spring of '71.

BY ATTORNEY BROWN:

Q. You don't know the applicant, Mr. Markham? A. No, sir, I don't.

Q. You don't know to when he belonged before the war or when he returned to the Cherokee Nation? A. No, sir.

Commissioner: This testimony will also be filed in and made a part of the record in Cherokee freedman case No. D.341.

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J. G. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete manuscript of his stenographic notes thereof.

(signed) J. G. Rossen.

Subscribed and sworn to before me this February 27, 1902.

(signed) T. B. Needles,
Commissioner.

I, A. R. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I correctly copied the original of this case, and that the foregoing is a correct copy thereof.

A. R. Cheever

Sworn to and subscribed before me this 7th day of August, 1902.

[Signature]
Notary Public.

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FD-435

Complete description of the subject and the nature of the case.
The following information is being furnished for the purpose of
the Bureau of the Interior, Department of the Interior, Washington, D.C.
The following information is being furnished for the purpose of
the Bureau of the Interior, Department of the Interior, Washington, D.C.

DEPARTMENT OF THE INTERIOR
BUREAU OF THE FIVE CIVILIZED TRIBES
FILED
MAR 31 1902


ACTING CHAIRMAN

and the Department of the Interior, Bureau of the Five Civilized Tribes, Washington, D.C.
The following information is being furnished for the purpose of
the Bureau of the Interior, Department of the Interior, Washington, D.C.

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the Bureau of the Interior, Department of the Interior, Washington, D.C.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I. T., March 3, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in the matter of the application of Becky Webber for the enrollment of herself as a Cherokee citizen.

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I.T., attorneys for the applicant;
W.W. Hastings, of attorneys for the Cherokee Nation.

SALLIE LOVINGS, being first duly sworn and being examined testified as follows:

BY MR. HASTINGS:

- Q What is your name? A Sallie Lovings.
Q What is your post-office? A Fort Scott, Kansas.
Q What is your age? A Born in '61, in March.
Q Born in March, '61, where were you born, Fort Scott? A Nevada, Missouri.
Q When did you come to Fort Scott, Kansas? A '63.
Q You were two years old? A Yes sir.
Q Did you ever know a colored woman up there named Becky Webber?
A Yes sir.
Q Did she have any children, the Becky Webber, you know? A Yes sir.
Q Give some of their names? A Well there's one, boy named Febby.
Q You know whether that was a nick name? A Yes sir, that was a nick name.
Q What was his correct name? A Why I have forgotten now, Lewis.
Q Did she have another one? A She had two girls.
Q What were their names? A One of them was named Lydia and the other one was, the, ah I can't, aint that funny, I can't remember their names, Lydia and I can't think of the other one.
Q You think of any other boys name besides Lewis? A Their names are on the end of my tongue, but I can't call it, it has been so long since I saw them; one of them's name was Lydia.
Q Now think about the boys' names? A Lewis, called him Febby, nick name.
Q Any other boy you think of now? A No, if she had another one I don't remember it now.
Q You remember a boy named Ellis, you remember? A I have heard the name.
Q Do you remember him? A No sir.
Q How long did you live in Fort Scott continuously? A From '63 until '69.
Q Do you know where Becky Webber was when you left there in '69?
A I think she was over across Mill Creek, lived near the magazine.
Q How far was that from Fort Scott? A About a mile or such a matter I don't think it was any further.
Q Did you afterwards come back to Fort Scott? A Come back in '72, yes sir.
Q Was Rebecca Webber there then? A Yes sir.
Q Well about when did she leave there? A Well she didn't leave there a great while ago, might have been in '80, '90 or '90 or '90 I think, in there somewhere, to the best of my knowledge.
Q Well did you live there after you came back in '72, continuously?
A Yes sir.
Q Where did they live in '72 when you came back over there, near the magazine, or had they moved? A No I don't know where they lived.
Q You know whether any of those children attended school or not?
A Yes sir.
Q Did you go to school there too? A Yes sir.

Q Go to school together? A Yes sir.

Q That was after you got large enough to go to school? A Yes sir, went to school with them two or three years.

Q You were born in March, 1861? A Yes sir.

BY MR. MELLER:

Q Are you a married woman? A Yes sir.

Q How long have you been married? A Since 1877.

Q How old were you when you were married? A I was 12 years old.

Q 12 years old when you first married; you were married in '77, you are certain about that now, are you? A Yes sir.

Q You say from '61 to '77 is 12 years do you? A Well that is when I was married.

Q You remember when you were first married? A Yes, I do.

Q When were you first married? A 8th day of September, '77.

Q How old were you when you were first married? A I was 12 years old.

Q That is all the knowledge you have of it is it? A Well that was the date that my mother's young master gave me, of course I was born in slavery; I was born in '61.

Q Where were you born? A Nevada, Missouri; there is no colored people hardly ever asked in the early days about birth.

Q Were you ever in jail? A Many a time, for fighting about my husband.

Q How many times were you in jail? A I don't know; any time any woman got after him I was whipped her; anybody will tell you that.

Q Give us an idea of how many times you have been in? A I don't know; I never kept count; I was in jail nearly the whole four or five or six years while I lived with him.

Q Have you ever been in jail since then? A No sir, truly on false pretense, when he tried to get me to live with him and I beat him and I have got a witness for it; that is the only man I ever married.

Q Have you any children? A Yes sir.

Q How old are they? A My daughter is 27 years old.

Q 27 years old? A Yes, she is 27 years old.

Q She was born before you married then? A Yes.

Q How long before you married your husband? A Well, she was, I have got 2 children.

Q You were married in '77? A I have got 2 children, both of my children were born before I was 17 and before I was married.

Q You have been married then about, your daughter was born about how long, about two years before you were married, that right? A Yes sir.

Q Then you wasn't but ten years old at the time your daughter was born, according to your testimony; you say you were married when you were 12? A Yes, I was.

Q You stick to that do you? A Yes, as near as I was told.

Q You came to Fort Scott in '63? A Yes sir.

Q You were 2 years old at that time? A Yes sir.

Q You remember the event well do you, when you came to Fort Scott? A Yes, I remember a little about it.

Q You remember a little about when you were 2 years old? A Yes sir.

Q You remember seeing Becky Webster as soon as you got there? A No, all I remember the government soldiers bringing them in there by the hundreds; she was with the rest of them.

Q You lived there in and left there in '69? A Yes, and stayed until '72.

Q You were eight years old when you left there? A In the neighborhood of that.

Q You had seen Becky Webster frequently before you left there, and you remember her now? A Distinctly; I remember her distinctly, and all the rest of them.

Q Ever seen her since then? A Yes, I have.
 Q Where was she in '66? A She was in Fort Scott.
 Q You remember that do you? A I am pretty certain she was.
 Q Do you remember she was in Fort Scott in '66? A If she come with the rest she was there, and she certainly came with the rest.
 Q Do you remember her being in Fort Scott in '66? A Yes sir.
 Q You swear she was there? A Of course I do.
 Q You were five years old at that time? A Yes sir.
 Q And you saw her? A Yes sir, if I could remember her at two years I could remember her at five.
 Q Do you remember it at two? A Yes, I do; and there's lots of people in this house knows I do.
 Q How old a woman was Becky Webber in '66? A Well from the first time I saw her I judge her to be about 40 or 50 years old. She was an old woman then.
 Q You left Fort Scott in '69 and came back in '72? A Yes sir.
 Q Becky Webber was living in Fort Scott all the time you were there? A Yes sir.
 Q You remember that distinctly? A Yes sir.
 Q When were you first asked about this? A Last fall I think it was.
 Q Last fall was the first time you had your attention called to this matter? A Yes sir.
 Q You remember it then forty years back, seeing Becky Webber in Fort Scott, when you were 5 years old? A Yes sir, I remember it.

RICHARD DRAKE, being first duly sworn and being examined testified as follows:

BY MR. HASTINGS:

Q What is your name? A Richard Drake.
 Q What is your age? A About 50.
 Q What is your post-office? A Fort Scott.
 Q How long has that been your post-office? A Since '70.
 Q Did you ever know a colored woman up there by the name of Becky Webber, Fort Scott, Kansas? A Yes sir, I know her.
 Q When did you learn to know her? A About the time I moved in Fort Scott, son after.
 Q Did this Becky Webber you remember that you know have any family of children? A I think she had two sons and two daughters, I think.
 Q What are the names of her sons? A I think one of them was named Ellis Webber.
 Q What was the other one's name? A Lewis, I think.
 Q What was her daughters' name if you remember? A I think the eldest daughter was named Lucinda.
 Q You recollect the other one? A The other one I just can't call the other one just now.
 Q How long did you continue to know Becky Webber there in Fort Scott after you came there, learned to know her in '70? A Until along about, I guess it was about '92 or '93, the last I saw of her.
 Q Did you know her continuously from that time up until '92 or '93? A Yes.
 Q Keep house there? A Well I think in '92 or '93 she went out in Colorado and came back there.
 Q I mean from '70 up until '92 or '93? A Oh yes, they had a house there.
 Q Ellis lived there all this time? A No.
 Q How long did you know Ellis there after you were there from '70? A Well part of my knowledge Ellis left there about '94.
 Q How about the rest of those children? A Well I think the eldest daughter left there shortly after Ellis did, or possibly before.
 Q Ellis living there with his mother when you first knew them? A Yes sir.
 Q And for about four years afterwards? A Yes sir.

Q You remember how long this woman was gone away from there in '92 or '93? A No, I don't know exactly the time.

Q You know how long she was gone, I say? A No, I say I don't know exactly the time.

Q Does she live up there now? A Not that I know of.

BY MR. MELLEITE:

Q Where was Becky Webber the applicant, in '66? A I don't know.

Q When did you see Becky Webber last? A Well the last, it was along about '92 or '93.

Q Do you know whether she is the Becky Webber that is applying here for citizenship or not? A Do I know whether it is? Well if I would see her I could tell you.

Q Well I know, but you don't see her? A No.

Q You don't know whether the Becky Webber you are talking about is the Becky Webber that has applied here for enrollment do you?

A That is my ~~mistake~~ judgment, it is.

Q You don't know anything about it do you? A Well I understand from what the examining is it is her.

Q Yes but you don't know anything of your own knowledge? A Well if she was before me I could state it was hers.

Q Yes, but she is not before you, are you going to swear that the Becky Webber you are talking about is the Becky Webber that has applied for enrollment? A I don't know no other one.

Q Is the Becky Webber that you are talking about the Becky Webber that has applied for enrollment here? A Well in my judgment it is.

Q What makes you judge it? A Because I don't know any other.

Q Do you know all the Becky Webbers in this country? A No sir.

Q It might be an entirely different Becky Webber? A If it was her sons wouldn't be, they would have different names.

Q Are you arguing this case or testifying; you just answer plain out that you don't know whether the applicant is the one you knew up there in Kansas or not, do you? A Well, I do.

Q Do you? A I think she is the same woman.

Q Why? A Why?

Q Yes; have you ever seen the applicant, the woman that applies here as a Cherokee citizen? A I have not seen her lately.

Q You don't know that she is the one you saw in Fort Scott do you? A Not unless I see her. Of course I couldn't see her.

Q Then you are not going to swear that she is the same one are you? A Yes sir.

Q How do you happen to swear that? A Because, her name is here in the list.

Q Maybe it is some other Becky Webber? A I don't think it is.

Q Why don't you think it is? A You aint asked me about any other.

Q Not talking about that; do you know the Becky Webber that has applied for enrollment is the one you knew in Fort Scott? A Yessir.

Q Were you here when Becky Webber made her application? A No sir.

Q Did you ever see the woman before the Dawes Commission? A No sir.

Q How could you swear that she is the one you knew? A How could I know the boy.

Q Then you swear that she is the one you knew in Fort Scott, do you swear it? A Yes.

Q Why do you swear it? A Because she is the one they are asking me about.

Q Not talking anything about their asking you anything; I am talking about your, what you know as to whether she is the one you knew in Fort Scott; go ahead and explain yourself? A I think I have explained it.

Q You swear that is the woman you- the one that applied for citizenship is the one you knew in Fort Scott, and you have never seen the woman that applied here have you? A I saw her in '92.

Q Have you ever seen her since she applied or at the time she applied? A No, not since I haven't.

Q Then you swear positively that she is the same one you knew up there in Kansas do you; yes or no now? A Yes.

Q Yes, she is the one, you say; you want it to stand that way?
A Yes sir.
Q Where is she now? A I don't know.
Q Where does she live? A I don't know that.
Q When did you last see her, the woman you are talking about?
A I think it was along in '92.
Q Never heard of her since that time? A I never heard of her until to-day.
Q Where did she go from Fort Scott, she left you said didn't you?
A I said she went to ~~Hark~~ ~~Hark~~ Colorado.
Q The woman you are talking about went to Colorado? A Yes, but she come back.
Q How do you know? A Because I saw her.
Q Where did she go the second time? A I don't know.
Q You don't know where the woman went, north, south, east or west, from Fort Scott, do you? A No, not the last time I saw her I don't.
Q You know whether she is in the Indian Territory or not? A No I don't.
Q Then how do you swear she is the one that has applied here? A How do I?
Q Yes. A (No response.)
BY MR. MELLETTTE: I will withdraw that question.
Q Now where was Becky in '76? A I don't know.
Q You didn't see her in '76 did you? A Not to my knowledge I didn't.
Q She may have been down in the Territory in '76? A She might have and I wouldn't have known it.
Q You don't pretend to have kept track of her all the time? A No sir.
BY MR. HASTINGS:
Q The Becky Webber you knew had a son named Ellis? A Yes sir.
Q And a son named Lewis? A Yes sir.
Q And she had two daughters that you have mentioned? A Yes sir.
Q Is that the way you identify this woman and her family? A Yes sir, that's exactly it.
Q Did you miss this woman from '70 to '92? A Oh yes sir, in between that time she left there; the Pacific Road was built along by there where she had a little piece of property, and that is the way I first the thing, and I think during the time the Pacific Roadbought that property.
Q And then she left there? A Yes sir.
Q About what time was the Pacific road built? A Well I think it began along about '81 or '82, somewhere along there.
BY MR. MELLETTTE:
Q Where was Lydia Webber in '78? A I don't know.
Q How? A I don't know.

ELIZABETH DAVIS, being first duly sworn and being examined testified as follows:

BY MR. HASTINGS:
Q What is your name? A Elizabeth Davis.
Q What is your age, Mrs. Davis? A 57.
Q I believe you have testified that Fort Scott has been your post-office since '62? A '63.
Q You live there now? A Yes sir.
Q Do you know a colored woman up there by the name of Becky Webber? A Yes sir.
Q Did you know any of the members of her family? A I was not personally acquainted with the members of her family, but she had a boy named Ellis and I knew a daughter Lucinda and Lydia; that is all I know of the children; all I ever saw of them.
Q Where did this woman live? A She lived over on, they called it Tead-lops; the Pacific Road built right through her place and part of her lot.

Q When did you first learn to know her and her family? A Well I knew of her in '64 and '51.

Q How long did you continue to know her? A , Oh I knew them until up in the year 1880.

Q Ever do any work for you? A No, no, no, she never did any work for me.

Q She own property up there? A Yes sir. She worked at the Wilder House, a hotel.

Q You know when Ellis left there? A No I couldn't say, left there quite a while after the railroad went through there.

Q This woman had a son named Lewis, did she? A I don't know, I know Ellis, that's all I know.

BY MR. KELLETTTE:

Q Where was Becky Webber in '66, Mrs. Davis? A I don't know, but I think she was in Fort Scott, she had a home there then.

Q You don't remember back now seeing her in any particular year can you? A No, I remember seeing her though every year and often, she visited a colored lady that lived close to me often there.

Q You didn't keep close watch on her did you? A No, I had no occasion to keep close watch on her.

Q You just paid such attention to her as you would ordinarily pay to a colored family in the neighborhood? A Yes, she was a nice, good woman, and a woman that every one liked.

Q When were you first talked to about this matter? A I have never talked in been talked to about it yet.

Q Nobody ever mentioned it to you until you came on the stand here? A I think that some one did say something to me to-day.

Q You didn't know when you came down here that you were going to be asked about Becky Webber? A No.

Q And you never thought anything about Becky Webber particularly? A No.

Q As a matter of fact they told you to-day about Becky Webber and you remembered back 32 years? A It has not been 32 years since I saw her, I remember her very well, and very distinctly.

Q You know whether she came to the Cherokee Nation, the Indian Territory during the time you knew her, in Fort Scott? A I don't know, I know she went to Colorado once for her health.

Q She went to Colorado, but you don't know whether she went to the Territory or not? A No sir, I do not.

MINERVA RUNYON, being first duly sworn and being examined testified as follows:

BY MR. HASTINGS:

Q What is your name? A Minerva Runyon.

Q What is your age? A 48, I am in my 48th year.

Q Post office, Fort Scott? A Fort Scott.

Q How long has Fort Scott been your post-office? A Since '62.

Q Did you know a colored woman named Becky Webber? A Well, I, just slightly, yes.

Q Did you know her family? A Well some of the children I knew.

Q You remember any of their names? A There was Linda and Ellis, I believe that's all the names I can call, they never lived in our neighborhood, although I knew where she did live.

Q Where did she live? A She lived in a little, well, they call it Todd-lane.

Q How long did she continue to reside there? A It was sometime in the '70s, I couldn't say just what time.

Q Number of years after the war? A Oh yes.

Q Did you see her frequently? A Oh I would see her frequently on the street.

Q You never missed her there for several years after the war?

A No sir, I never missed her for several years after the war.

Q She had a son named Ellis? A Yes sir.

Q And a daughter named Lucinda? A Yes sir.

Q You remember Lewis? A Well I couldn't say that I do remember Lewis now.

BY MR. MELLETT:

Q You say you last saw of Becky Webber sometime in the '70s? A Yes sir.

Q You mean by that she ~~lived there~~ left there sometime in '70?

A No, I don't say she did leave there, I couldn't say that.

Q You don't know whether she did or not? A No I didn't see her enough to know.

Q Where was she in '66? A I couldn't tell you.

Q Is it a fact that she lived there up until '92? A I couldn't tell you that.

Q If she did you don't know anything about it? A I don't know anything about it.

Q Have you lived there up to this time? A I have lived there up to this time.

Q You haven't seen Becky Webber living there then since sometime in the '70s? A Sometime in the '70s.

BY COMMISSION: This testimony will be filed and made a part of the record in the following Cherokee Freedmen cases: D-854, and D-435, D-554, and the case at bar.

I, M.D. Green, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

M.D. Green

Supl. C. D. #818. Freedman.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
EDWARD WRIGHT as a Cherokee Freedman, introduced on part of the
Cherokee Nation.

The Cherokee Nation by its representative makes satisfactory proof of service on E. B. Lawson, the attorney for the applicant in this case, that testimony would be introduced by the

representative of the Cherokee Nation tending to diminish the right of said applicant, Major Wright to citizenship in the Cherokee Nation at the offices of the Commission in Muskogee, Indian Territory, on the 3rd day of March, 1902, and from day to day thereafter until the same could be heard by the Commission during the usual business hours.

Cherokee Nation represented by its representative, L. B. Bell.

O. V. Rogers, being duly sworn, testified as follows on part of the Cherokee Nation.

MR. BELL:

- Q Tell him your name? A O. V. Rogers.
- Q Age? A 63 years old.
- Q Place of residence? A Claremore.
- Q Are you a citizen of the Cherokee Nation? A Yes, sir.
- Q How long have you been such? A All my life, a little over 63 years.
- Q Did you go out of the country during the war? A Yes, sir.
- Q When did you return? A '66.
- Q Where did you come to? A Come to Fort Gibson.
- Q And stayed there did you? A Yes, sir.
- Q Well what was your business? A After I come back?
- Q Yes? A I followed freighting for something over three years.
- Q Where and between what places? A Sedalia and Pleasant Hill and Kansas City to Fort Gibson.
- Q Were you ever acquainted with a Freedman by the name of Moses Whitire? A Yes, I know him.
- Q Where did he belong before the war? A He belonged in Goin; Snake District.
- Q Do you know what particular Whitire he belonged?
- A I don't remember whether he belonged to George Whitire or Lee Whitire.
- Q If you did see him when did you first see Moses Whitire after the war, after your return to the Cherokee Nation?
- A As well as I can remember it was in February, '68; I met him just on this side of the Neosho River, as they were moving back to this country from Kansas. There was between 24, from 24 to 25 wagons and I met them right on this side of the Neosho River; Dick Whitire, Moses Whitire and Aaron Whitire and old Major Wright is all I know in the outfit.
- Q Did you have any conversation with them, stop and talk with them?
- A Yes, sir, and Col. Bill Ross passed while I was talking to them going to Fort Scott.
- Q Did you ask them where they was going to? A They said they was moving back.
- Q Well this 25 or more wagons was loaded with people?
- A Yes, mostly every one had household goods in them.
- Q Colony of Cherokee Freedmen? A Yes, sir, coming back to the Cherokee Nation.
- Q Well now that was; where you say it was? A It was right on this side of the Neosho River; between the old Hudson place and Neosho River.
- Q How far from the Neosho River? A I suppose half a mile.

Q How far from the north line of the Cherokee Nation?
 A I think the river is the line, about half a mile.
 Q And how far is that from the Indians' place? A The Neesho is the line, was I not right?
 Q You had reference to where the military road crosses the Neesho river? A Yes, sir.
 Q At Jack McLean's ferry? A They called it Hudson ferry at that time.
 Q Hudson lived there? A Yes, sir, in about a half mile.
 Q And this Moses Whitfire you met and talked with is the same one you knew in going snake and belonged to the Whitfire family there?
 A Yes, sir.
 Q About how old a man was he when you met him? A He is an older man I think than I am.
 Q And you saw other with him you know? A I think Aaron Whitfire and Moses Whitfire and old Major Wright is the old ones I know.
 Q And you talked with him there? A Oh, I guess I talked with him ten or 15, 20 minutes and while I was talking to him Col. Ross passed going to Fort Scott.
 Q Do you know where this man Whitfire lives now, Moses Whitfire you met?
 A No, I don't know where he lives.

MR. HASTINGS, Cherokee Representative:

Q Don't you know he lives on Salt Creek near Hayden? A No, I don't know for certain I heard he lived on Big Creek. I don't know throughout where he lives, I have seen him ever since I have been here, I don't think I ever saw at his house.

---oooOooo---

I hereby certify upon my official oath as Stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings had in this case on the above date, and that the foregoing is a true and complete transcript of my stenographic notes thereof.

(Signed) J. S. Rossen.

Stenographer.

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P. D. 818.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washington, D. C., May 20, 1903.

In the matter of the application of Edward Wright for the enrollment of himself as a Cherokee Freedman.

APPEARANCES:

Ben J. Scoville, representing E. B. Lawson, for applicant.
W. W. Hastings, for Cherokee Nation.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the applicant's attorney that it would, on the 20th day of May, 1903 introduce testimony tending to disprove the right of the said Edward Wright to enrollment as a Cherokee Freedman. The applicant this day appears by his attorney, E. B. Lawson, who is represented by Ben J. Scoville, Nowata, Indian Territory.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Chambers Commission on citizenship as found on page 55 of a book taken from the records of the Executive Department of the Cherokee Nation entitled, "Docket of the Chambers com'n on citizenship," as follows:

"No. 85 Edward Wright (Ex. 7th of June.
vs (Answer filed.
Cherokee Nation.

Judgment against claimant June 27, 1879."

The Cherokee Nation also offers in evidence from the same record as above page 57 of the same, the following:

"No. 89. Major Wright (Ex. June 7th, statement filed
vs on the 28 of June,
Cherokee Nation. 1st July set, 1st Aug.
set for trial.

Judgment against claimant June 27th, 1879."

The Cherokee Nation offers in evidence the application made for citizenship in the Cherokee Nation by Lewis Whitmire on the 26th day of June, 1878, as found on pages 18 and 5 of book B, entitled, "Citizenship record 1874," as follows:

"Before the Commission sitting at Tallahassee to review claims to Cherokee citizenship.

The undersigned claimant in the case of
Lewis Whitmire

vs

Cherokee Nation

respectfully presents the following statement of his claim according to the requirement of the Commission.

Claimant claims under classification five of claimants in the law creating this Commission, that is, as a colored person formerly a slave owned by a citizen and resident of the Nation at the

beginning of the late war, freed by law and made a citizen of this Nation by provision of the treaty of 1866. For

claimant was at the time the place above said owned by George Whitmire, a Cherokee citizen, left the country during the war and returned in the autumn of 1866 to select and prepare a home for his family (they then being without one) and again the following year prosecuting the work as his circumstances and the condition of the country at that time prevented and leaving his family in the intervals of the season they would subsist without discomfort and exposure and until a removal of them was practicable which removal of claimant's family was accomplished to the point of the Nation settled by claimant for theirs and his home in the spring of 1867.

Claimant's rights have been called in question by competent authority, and he therefore presents them to the important examination of this Commission as are authorized so to do by law.

This June 28, 1878.

Lewis Whitmire,

By W. P. Boudinot, Atty.

The Cherokee Nation offers the following from the same book and continuing on the same page, the application of Moses Whitmire as follows:

"Before the Honorable Commission sitting at Tahlequah to try rights to Cherokee citizenship,

In case of Moses Whitmire

vs

Cherokee Nation,

claiming Cherokee citizenship.

Claimant claims under the fifth specification of the clauses of claimants to citizenship as found in the law creating this Commission, to wit as a colored person formerly a slave owned by one George Whitmire, Cherokee citizen, resident of this Nation, at the beginning of the late war, and freed by law and made a citizen by provision of the treaty of 1866. Claimant respectfully refers to the statement by claimant Lewis Whitmire as embracing the facts which the present claimant would submit to the Commission as the grounds of his claim.

Respectfully submitted,

Moses Whitmire.

June 28, 1878.

By W. P. Boudinot, Atty.

The Cherokee Nation offers in evidence from a book taken from the Executive Department of the Cherokee Nation entitled, "Register of evidence before court of Commission Chambers Court, Book A," page 239, case No. 60, as follows:

"Case 60.

Loren Whitmire

vs

Cherokee Nation.

Tahlequah,

July 3, 1878.

"Like Richard a witness for claimant called and sworn.

"I at first think I am about 47 years old. I live in Illinois near 100, O. N., an a citizen of the Nation. I have been on the faithful roll and my rights proved up before the Supreme Court.

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Am a citizen under the treaty of 1866. I went north to the state of Kansas in '62. I returned in August - 21st or 22nd, 1866. I left my family in Fort Scott when I came. I came down to get a claim. I staid about three weeks that time, and then returned to Fort Scott. After I returned to Fort Scott there were others who started down, the Whitmires were of that number. The claimant was one of them. They came down in Decr. 1866. They returned to Fort Scott before I left there. I left Kansas about the 2nd week in January, 1867 and got to the crossing of the Neosho river about the last of January. When I first came down there was about 15 in the party. They left their families in Kansas when they came down here. There was some of party come with the Whitmires who piloted the Whitmire party and my party were Sam Webber, Mike Daniels, Sam Webber, Jr., Aaron Webber, Reubin Sanders, Tuck Sanders.

The Whitmire proper were Aaron, Lewis, Hosc, Dennis and Nelson Whitmire and others that I do not recollect. The object of this party coming was for the purpose of erecting houses. When I moved with my family I stopped on Pryors Creek at Mrs. Alberty's and remained about two weeks. The reason we left that part of the country was because that part of the country was too sparsely settled and bare of subsistence. As I was coming down the first time we were overtaken by the Cherokee Delegation. They were sore who come here were authorized by others to locate claims for them, one was by McKey requesting Abe Fields to locate for him. The original request filed.

Cross Examined.

I can not remember the date I arrived here the first time from Kansas. The claim we made I got three sets of house logs, hauled them and piled them up, and some of the men put up houses, I did not put up a house. I started back to Kansas about the middle of September. When I first left the country it was in February, 1863. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Bushy Mountain on this side of Arks. River. When the Whitmires returned to Fort Scott I do not know when they left there to come to this country as I left there when I left. It was reported when they returned to the Nation that the Whitmire party had built houses. But I do not know this myself as I was not along. I only heard they had. The war closed in 1865 I think. I did not know it myself but people told me who could read.

I do not know myself that it was the month of Aug. When I come here first, but I was told it was that time.

Re Direct.

It was the December following the time I first came down that the Whitmires come down first to select and improve claims.

Nick x Fields.
his mk.

Aaron Whitmire)
vs) August 1, 1873.
Cherokee Nation.) Bluford Alberty, witness for claimant,
called and sworn.

I reside in Coowasee District, C. N. I am a native Cherokee citizen. I left the Nation during the war. I returned to the Nation on the west side of Grand River, Coowasee District.

on the 3rd of September, 1866. I had occasion some time in the last of Oct., or the first of Nov., or probably it might have been as late as the middle of November, to go to the Viridians. While out there I fell in with a party of seven or eight persons who were camped with others near Sand Crouches. I did not go to the camp. They were colored people. I knew most of them. Their names were old Sam Webber, Aaron Whitlire, and a younger brother and Lewis Whitlire.

There was another person whom I was told was a Landrum. I do not recollect any of the others and can not identify them. The Whitlires were Johnson and George Whitlire, Aaron, Lewis and his mother belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim Rosenthal had got home. I told him I had not seen the treaty but had heard rumors about it. He told me they had come to pick themselves horses or make claims and that he was the leader of the company and the reason why Major Wright did not come was that he was an old man but that he had sent his son down to work for him and make him a claim. He then asked what chances there was to get provisions over on the river. I told him there was none there, but that there was a lot of condensed flour at Gibson and if they would go there they would get some. He also represented that they had come down to make claims for others, who had remained in Kansas, to build them homes and to furnish. They also stated that they were notified to come, and that they had accordingly come to make claims for themselves and the others that they left behind in Kansas. As near as I can recollect it was some time in October or November that I saw these parties. I was not very cold weather at the time. I recollect as I camped out at night. Did not see any of these parties after this time, May, 1867. There were no provisions to be had in this country at that time. Provisions were very scarce. It was my understanding that they had come to prepare horses for themselves and families. They told me so at least. Major Wright belonged to Cornelia Wright before the war.

Cross Examined.

I heard after this some of them went back to Kansas. At the time I saw them I do not know whether their families went with them. I think I saw Dennis Whitlire with this party but am not certain of seeing Dennis or William. I know there was four of the Whitlire boys. They were owned in the Nation and resided here up to the breaking out of the war.

B. W. Liberty.

Aaron Whitlire
vs
Cherokee Nation.

I know Melissa Ratliff. She was twelve or thirteen years old at the close of the war.

She was living with me then and still lives in my family. Jack Landrum was one of the band above referred to, also Ransom Daniels. I learned from our landmen Uncle Mike and Sam Webber that the Cherokee delegates advised us to settle in a compact body on unoccupied lands. We crossed the Kansas in coming down at Holman's Ferry in 1866. The chief Perryman who crossed us was Bill Martin.

While on Lightning Creek in 1866 I saw Mr. Liberty but had no conversation with him, but Sam Webber had in my presence.

POOR ORIGINAL -
BEST AVAILABLE COPY

Green Bay, Ind.

I am a claimant before this court for citizenship. I am a half-brother of Aaron Whitmire, Louis, Dennis and Nelson are also my brothers, Mariah Whitmire is my sister. Major Wright is my stepfather. The names of the families that came with me to the Nation are as follows: Mike Sanders, Sam Barber, Peter Neigh, Bill Foreman, Tuck Sanders, Hanson Daniels, Sam Barber, Jr., Louis Whitmire, Nelson Whitmire, Dennis Whitmire, Aaron Whitmire, is all I can recollect now. Witness and my brother were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright. I can't name any others. Witness was a man of family in 1866 when we came on from Kansas. My family was at Fort Scott. Helisea Ratliff, Ed Wright, and my wife and myself composed my family. Louis had no family. Aaron and Nelson did. Edgar, Sam, Nelson and Allen were Aaron's children and his wife, Sarah. They were left, the wife and children in Fort Scott when we came in 1866. Eliza Sanders, Thos. Sanders were Nelson's family and back at Fort Scott. We went back 1st January 1868 to Kansas after coming to the Nation. Then witness returned in 1867 to the Nation Aaron, Louis, Nelson, Dennis, Hanson Daniels, Tuck Sanders, Peter Neigh and the families of those who had families all come as I did besides others not particularly remembered. This was the first time any of our families had been to the Nation, at least mine, Aaron's and Nelson's.

The first time Mariah Whitmire was in the Nation after the war closed was after our parties returned in families in 1867.

The first time Major Wright returned was on our first trip in 1867. Helisea Ratliff was owned by one Alec Ratliff at breaking out of war. She first came in March 1867. Jack Landrum was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Alpert as a witness in this case.

He Direct.

Mariah's family at the close of the war was a separate family. Harry Whitmire, her son, represented his mother on the first trip in 1866. Witness is about 53 yrs. old. Major Wright was an old man at the close of the war. Louis Whitmire had been back to the Nation before 1867.

Attest

B. L. Nicholson,
Clerk.

Moses Whitmire,
Mark.

Aaron Whitmire & Family } Case 53.
vs }
Cherokee Nation. } Claiming citizenship.

Now comes claimant by Atty before the Commission sitting at Tahlequah to try certain claims for citizenship in the Cherokee Nation and makes this his statement of his grounds for said claim to wit-

Claimant is a colored person and claims as aforesaid under privilege of the fifth specification of the classes of claims preferred by law to the Commission to examine and decide rights by competent authority having been denied citizens.

Claimant belonged to Gen. Whitmire & Cherokee citizen at the commencement of the war of the rebellion and was then living in this

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Nation. After the beginning of said war claimant moved to or the vicinity of Fort Scott with his family at which location he resided until the summer of 1866 when he removed to this Nation and proceeded to select and improve a home on the Verdigris River for himself and family's permanent residence.

While he was thus making preparations for the removal of his family by providing for their habitation and subsistence at the place mentioned they his family remained where they had been sojourning during the war.

Claimant was compelled by unfavorable circumstances and the attention he was obliged to bestow upon his family to remit his work upon his improvement on Verdigris River from the early fall of 1866 to the early winter of the same year, when he resumed labor upon his improvement, after which he removed his family as soon as practicable to wit in the spring of the year of 1867.

Claimant claims to have returned to this Nation in his own person and as representative of his family within the time provided for by treaty, in that having no sentence to come to any other former citizens he did everything possible to constitute a return consistent with the duty he owed to his family by laboring as far as his means allowed to provide a home in this Nation.

Respectfully submitted,
Aaron Whitmire,
By Atty Wm. P. Boudinot.

Aaron Whitmire
vs
Cherokee Nation.

August 1st, 1878.

Wm. Martin, Witness for claimant, called and sworn.

I live on Big Creek, Coconawago, C. H. Am a citizen of the Nation. From August up to Christmas 1866 I was at the ferry on the Neosho River on the old military road leading from Fort Scott, Kansas to Fort Gibson, C. H. Am acquainted with claimant and his brother, Lewis, never knew Aaron until I met him at the river. Lewis I knew prior to that time. While I was in charge of the ferry I recollect having met claimant and Moss, Lewis, Dennis and Nelson, Whitmire, Peter Maize, Mike Sanders, Sam Weber, and Young Sam, Bill Voreran and others but I do not recollect anything about them. They were traveling. They stated they were coming from Fort Scott. I crossed them from the Shannon side of the River into the Cherokee Nation. They inquired the road to Big Creek. Nelson gave them the directions to the head of Big Creek. They stated the reason why they were coming was that the Cherokee Delegation had invited them to come back under the treaty. They mentioned Jim McDonald as the principal one who had invited them and that were that on their way to select themselves homes.

It was after the Delegation returned that I met claimant and the others spoken of. It was pretty cold weather when I crossed them. It was as near as I can recollect about the last of October, 1866. I am positive it was before Christmas at I left them at Christmas or probably a few days before Christmas.

Cross Examined.

I was not acquainted with the claimant nor any of the others named previous to the war.

I do not know who owned before the war. I do not know whether they had lived in the Nation previous to the war. I do not recollect of seeing any of the families of the parties named at the war.

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I crossed them over the river. I set some of this same party back over the river a short time after they had come in, Lewis, Nelson and Dennis Whitmire and little Sam Webber and I think they were here who crossed back but I can not place them now. I learned the names of the parties from conversation with them, but did not become particularly acquainted with their names at that time. I think there was one woman with the party, I think she was little Sam Webber though I would not be right positive that there was a woman along or not. I was positive there was no children as I never seen any. They had camped there long enough that week they any woman and children I would have known it. The next time I saw claimant was in the fall of 1867 on Big Creek. I learned from them that they had got there in March 1867. I know this from having heard it generally talked amongst themselves.

Re Direct.

At the present time the distance between our two settlements is about 5 miles. I recognize the claimant and the other parties spoken of. I have been there frequently since that time. I got them over the river. When I saw them in the fall of 1867 they had their families with them then. The means of subsistence at the time I crossed in the country at that time was short.

William Martin.

Aaron Whitmire
Vs
Cherokee Nation.

July 4th 1870.

Wm. McGracken for claimant.

Witness met claimant near Fort Gibson in Novr. or Decr, 1866. Met him at the ferryboat on Grand River.

Witness had a conversation with claimant at the ferry in which claimant said he was on his way to Going Snake his former home in the Nation and seven of claimant's brothers were behind on the road.

Witness is a citizen of this Nation and knew claimant before the war.

Attest:

Wm. McGracken.

D. L. Nicholson, clerk.

Aaron Whitmire
vs
Cherokee Nation.

Bluford Alberty.

George Whitmire before the war lived in Going Snake Dist. This Dist. borders on the line of the state of Arks.

Claimant now resides near the western line of the Cherokee Nation. The settlement before the war was sparse where claimant now resides. I would say the distance from where George Whitmire resided prior to the war, and claimant's present residence is 90 or 100 miles. Witness states that he had a conversation with Sam Webber in which Webber assigned as a reason for settling where he had was that Agent Jones advised the colored people after their freedom to settle in colonies or as thickly as it was convenient to do in an unoccupied part of the country.

This was thought best for the colored man as they could have their own schools as until matters were more regulated in the country.

The first conversation was in the fall of 1866. The second conversation was in the spring of 1867. I saw several of their families in May, 1867 on Big Creek or Lightning Creek in the Nation.

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The mode of statement is in the same locality as that of the time mentioned above. In Oct. or Nov. 1865 I gave claimant and other colored men permission to occupy the old fields in that neighborhood for the purpose of quickly clearing the year following. Louis Whitmore is the party of the other man, I also permitted to go on the old fields. The spring of 1867 I was absent and Louis Whitmore at work on the two fields spoken of. This settlement of colored folk has the character of quiet industrious and law abiding citizens as much as any in the Nation. Some of these people have large and good farms all made by themselves since the war.

Witness with a party of six gentlemen in the fall of 1866 saw this colored party who settled on Big Creek afterwards in the neighborhood for the purpose as they said, the time of selecting their homes. Several claims were then in sight of witness which the colored party said they had selected and are now the homes of the party above indicated.

Agent Jones was at the time advising said Col. party. A delegation for the Cherokee Nation at Washington. There were parties as witness learned from one of them who wished to travel or drive off from their claims this colored party at the time they were prospecting the country. This was advised against by witness and it was not done or carried out. Witness' party spoken of above was composed of Cherokee citizens except one colored man. I am the sole survivor of this party except the colored man and possibly one other. Occupation of witness is herding wild cattle. I travelled a good deal in that neighborhood at that time spoken of.

"Continued on page 283."

Aaron Whitmore et al. vs. July 16, 1878.

vs.
Cherokee Nation.

John Riley.

sworn as witness for her. I live in Cooperswood Dist. I first moved there in 1862 and have continued to reside there except in time of war. I came back in the month of August 1866 to the Nation. I found Aaron Whitmore. He returned or came to the Virginia River to live in the month of March 1867. Also came at the same time Pat or Hoigs, Mike Samuels, Sam Tabber, Billy Foreman, with their families and others whom I don't recollect. Claimant made a crop that spring in 1867 on an old place of Aaron Whitmore. He had settled no other place before that.

Gross Marshall.

I don't know of any colored heads of families coming in to the Nation in the month of Decr. 1865 to locate homes but I know of some who came in Sept. for that purpose. I knew where Aaron Whitmore lived at this time. I was near Coody's Bluff in Decr. '66. I lived on the west side of the river. Claimant lives and settled on the east side of the river. If any heads of families came in Decr. 1866 I never heard of them. I never knew of Blufford Albert being in the part of the country in 1866 in the party who came down in Sept. 1866. Aaron Whitmore was not along but Mike Sanders, Sam Tabber, Gilbert & perhaps Billy Foreman. Moses was not along. Darryl was not along as I know of that name nor Major Wright nor Nelson Whitmore that I know of. If any such party had come in in Decr. 1866 I think certainly I would have known it.

John Riley.

Radolph Riley.

[Page 283]

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about the mid 10 of May 1867 & first saw this party with their families at their new homes. Claimant and others of this colored party told witness that they returned in March 1867 to the Nation.

Re direct

I learned from John Comer that most of this colored party returned to Kansas after their trial and a few remained. I was at General Convention of the Colored People in 1868. It was witness' understanding that the purpose of said convention was to ratify the treaty of 1868. I think the object of the convention was to ratify amendments to the Constitution under the treaty and to ratify the treaty. The treaty was concluded the 8th of Aug. 1868 is my information. It might have been July 17, 1868.

Witness went south during the war. J. H. Jones was not at the time herein mentioned. S. A. Kent but was a Delegate and was Agent afterwards.

R. W. Alberty.

Attest

D. L. Nicholson,
Clerk.

March 1868

Cherokee Nation.

Filed on May 10, 1878.

This day comes John P. Lyons Atty for Cherokee Nation and denies all and vindicates the allegations of claimant contained in the above named case.

John P. Lyons,
Atty for C. N."

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 2nd day of June, 1868.

(SEAL)

(Signed) P. C. Peetee.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, at the time was called by me.

Subscribed and sworn to before me this 15th day of Aug. 1868.

Arthur Evans
Notary Public.

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to be made in the future.

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COMMISSION TO THE FIVE CIVILIZED TRIBES

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To be filed with F. D. 435.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, T. T., May, 13, 1902.

In the matter of the application of Elizabeth Meigs for the enrollment of herself as a Cherokee Freedman.

Cherokee Nation appears by W. W. Hastings.
Applicant appears by L. T. Brown.

MRS. LYDIA BARTON, being first duly sworn testified as follows

MR. HASTINGS: What is your name? A Mrs. Lydia Barton.
Q What is your postoffice? A Fort Scott, Kansas.
Q Do you hold any official position at the present time? A Yes, sir.
Q What is it? A County Clerk.
Q Of the county in which Fort Scott is located? A Yes, sir.
Q Have you an official paper? A Yes, sir.
Q What is it? A Our official paper at the present time is the Republican, but that changes you know from time to time.
Q Do you know what your official paper was in December, 1866, and up to and including March of 1867? A Yes, sir.
Q What was it? A The Fort Scott Monitor.
Q Are you required to keep files of this paper in your office? A Yes, sir.
Q Have you a file of the official paper including December, 23, 1866? up to and including March of 1867? A Yes, sir. (Here presents files.)
MR. HASTINGS: The Cherokee Nation offers in evidence the account found in the Fort Scott Monitor of date Wednesday, December, 23, 1866, found on the second column of the editorial page, headed "Another Murder."
MR. BROWN: Comes now the agent for the applicant and objects to the introduction of these newspaper accounts for the reason that they are incompetent, irrelevant and immaterial, and purely hearsay.
COMMISSIONER: The objection will be noted and the newspaper accounts introduced in evidence and considered for what they are worth.

"Another Murder."
Shooting of D. Hayford.

Testimony given before the coroner.

On Saturday night, the 23rd. inst., after dark, Mr. Dyer Hayford of this city was found murdered. A colored man, named Eli Mackey, has been arrested, and is in jail, charged with the crime. There would not seem to be much, if any, doubt of his guilt. Mr. Hayford, has been a resident of Fort Scott for several years, has kept a grocery and provision store on the corner of Williams and Bigler Streets, and was a very quiet and inoffensive man. The facts of his murder as we learn them, are these.

On Saturday, about dark, the sack of flour which Mr. Hayford had placed on a box, outside the door of his store, was stolen. Being missed almost immediately, and learning that Mackey had taken it, and was then on his way home with it, (Mackey resides near Fort Scott mills,) Mr. Hayford jumped on a horse and started towards the mill. He had not been gone more than twenty or thirty minutes before several shots were fired, on the road between the city and the mills, where Mr. Hayford was found on the ground, in the last agonies of death. He had received four shots from a weapon, evidently a revolver.

suspicion was at once directed to Mackey and he was arrested. As the news spread through the city, the excitement and the indignation was great, and many threats of lynching Mackey were made; but wiser and better counsels prevailed, and there was no disturbance.

On Sunday, Justice Maygrave was called on to hold a coroner's inquest. A jury was empanelled, consisting of Messrs. C. F. Drake, Joseph Ray, Frank Clough, Porter Williams, Jos. Warden, and F. L. Phillips. The body of Mr. Hayford having been removed to his late residence, the jury proceeded to inquire into the cause of his death. We give the principal part of the testimony given before the jury.

Drs. J. S. Redfield and B. F. Henler made a post-mortem examination, and testified that they found four pistol or gun-shot wounds on the body and face of Dyer Hayford, then lying dead before them. One shot entered the region of the stomach which came out over the liver, in the side of the back. This wound bears evidence that the pistol was held close to the body when discharged. The other wounds found on the body were about two inches above the left nipple and about an inch and a half apart - one ball passing through, coming out below the left shoulder, the other ranging downward, and was found close to the spinal column, a few inches below the lower ribs on the left side of the body. The fourth ball entered the upper part of the chin, not fracturing the bone, and lodged in the right shoulder, (evidently fired, we think, after he was on the ground.) The surgeons testified that any of the three wounds found on his body would have been mortal.

Alonzo Gullin, (colored) sworn - Was at Hayford's Saturday evening, just after six o'clock, came on horseback, left my horse at the door, went in and found Hayford alone and coming toward the door; Eli Mackey, colored, was standing on the walk when I went into Hayford's; a sack of flour was standing on the box at the door when I went in; Hayford came out and the flour was gone; he asked me who was there when I came in, and I told him; asked me to get on my horse and follow Mackey and see if he had the flour; did so; rode very fast and overtook Mackey at the mill, going toward the mill; he had stopped and the sack of flour was on the ground beside him; his coat was off and thrown over the flour but the end of the sack was in sight; I rode close to him; he put his hands up to his sides and was blowing right and left; I inquired if he had seen a steer with a rope on his neck; he said no; I rode back toward Hayford's and told him Mackey had the flour and where it was; Hayford said he would go and get the flour, and asked me for my pony; he got on and rode down the road; he had been gone a good while before I heard the firing; he had been gone long enough to ride to the mill and back to the place where he was shot, before I heard the firing. When I saw Mackey at Hayford's he had on a soldier's coat; it was off when I found him with the flour. Didn't notice that at any time whether Mackey had any arms or weapons with him; saw him again after he was arrested, a short time after Hayford was killed; he then had a different coat. He asked what he was arrested for; he was told, for stealing flour; he asked who had seen him with the flour; he was then told he had shot Hayford, and he said he had nothing to shoot with. I know that he generally carried a revolver; when I saw him with the flour I didn't notice whether he had one or not. When Hayford started from the store, he said he would go and get Mr. Myers to go with him to get the flour; from the place where I saw Mackey with the flour to that where Hayford was shot, is about one hundred yards. I heard three shots distinctly.

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Harry Lender, (deceased) sworn - Saturday evening heard several shots fired. Was at home, lived near the mill close by Eli Mackey. About twenty minutes after the shots were fired Mackey came to my door; asked me if his wife was there; told him no. He seemed to be in a hurry. He had on a black soldier's coat; the shooting sounded as if it was south from my house, and about the place where Hayford was found; someone rode down to Mackey's and returned about fifteen minutes, before the shots were fired. Saw the coat which Mackey wore when he came to my house, at his house afterward. - Do not know whether he had any revolver then or not, he usually carries one, have seen him have one several times. I did not notice any flour on his coat. It was a navy revolver which Mackey usually carried. He also owns a gun; didn't see that at his house that night. When Mackey left my house he went to his house, and soon afterward heard him going back to town whistling. Mr. Jones found the sack of flour at the edge of the creek; looked as if thrown down the bank. Was found about twenty yards from Mackey's house. Saw Mackey have a revolver on Friday the day before Hayford was killed.

E. J. H. Myers, sworn - I live about 100 yards west of Eli Mackey's. Saturday night was at home sick abed; a man came to my house and inquired for me; I heard him and knew by his voice that it was Mr. Hayford; have known him several years. He left and my wife said he rode in a northerly direction, that is the way from my house to Mackey's. About five minutes after he left I heard four distinct shots. From the sound thought they were about 150 yards off and southwest from my house. After the firing heard someone walking past, whistling; he was going towards town.

Stephen Leoney, (col.) sworn - After dark Saturday night I saw Eli Mackey at Smith's saloon. He asked me to play cards with him that night. He went out and I told him not to stay long. I waited a good bit and Mackey didn't come back and I went out and called him; he didn't answer; I then went over to Hayford's and learned that a sack of flour had been stolen. Didn't notice whether Hayford was there or not. Also Cullin told me he saw Mackey on the road towards home, and that Mackey heard me call, but wouldn't answer. Didn't see Mackey again until Mr. Jones had arrested him, and brought him up to town. When I saw Mackey at Smith's he had on a soldier's frock coat; he had a revolver on him then; it was a navy revolver. When I saw him after he was arrested, I think he had on a different coat.

Daniel O'Neil, sworn - Saturday night I was at Kirby's and heard a shot fired, and soon after heard a man halloo; run out and another shot was fired before I got out; immediately after heard another shot and saw the flash of a pistol down in the bottom toward the mill. Alex Harris, Westly Wickey and myself run down the road. We found a man lying on his side; his face was turned downward; he was alive but could not speak. From the sound I know it was a pistol that was fired. Came to town to find Mr. Jones, Deputy Marshal.

The coroner's jury returned to the justice their inquisition, stating that Dyer Hayford came to his death by gun-shot wounds received at the hands of Eli Mackey; they also found that Mackey had feloniously and wilfully fired the revolver at Mr. Hayford with intent to kill him.

Mackey will have his examination soon, before Justice Hartgrave, and will no doubt be committed for trial at the next April term of the district court. Mackey is said to be a very dangerous man; he was raised in the Cherokee Nation, and is said to be part Cherokee. He is also accused of having assassinated two men in the Nation, before he came to Fort Scott.

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and he was once before arrested here, for shooting a man dead. He before his trial came off the prosecuting witness list for the unknown, and Mackey was discharged without trial. Let him be tried for the offense with which he now stands charged and if guilty he should expiate his crimes on the gallows."

MR. HASTINGS: I desire to introduce an editorial from the Fort Scott Monitor of date February, 28, 1887, as follows:

"Eli Mackey, colored, accused of the murder of Eyer Hayford, confined in our jail, to await his trial at the next term of the District Court, for murder in the first degree, escaped last evening, and up to the time of going to press this morning, had not been heard of. A reward of two hundred dollars is offered for his apprehension."

MR. HASTINGS: The Cherokee Nation offers an evidence as follows from the Fort Scott Monitor of Wednesday, March 27, 1887:

"A Chapter of Horrors."

Murderer of Hayford captured and made.

Tragic events connected with the affair.

The history of our community for the past week is replete with horrors, such as will, for long days to come, overshadow the hearts of our citizens with gloom.

A few weeks ago, we published an account of the escape of Eli Mackey, the black fiend, who last winter murdered Eyer Hayford. Ever since that time the officers of justice have been on the alert with a view of his recapture, and on Wednesday, the 23rd inst., Deputy Sheriff Wheaton, having learned that the murderer was concealed in his brother's house, about five miles northeast of this city, started, in company with his son, Charles T. Wheaton, Edward Coe - who were on police duty in this city - and Senj. Files, for the purpose of capturing him.

On arriving at the house, Messrs. Coe and Wheaton, Jr., approached and ordered the wretch to surrender. In return he fired several shots through the partially open door, and then ran out of the house into the open prairie. Coe, being nearest, received the first shots that were fired. He stepped to the corner of the house, sat down and expired in about fifteen minutes. Immediately after Charles Wheaton received a ball in the right side and fell to the ground. For some time no hope was entertained for his recovery; but at the present writing his condition is improved, and his friends entertain some hopes that he will live.

In the mean time a number of the neighbors had gone around and headed by Capt. Curtis Johnson, Mr. Files and Mr. Dickinson started in pursuit. The murderer, with a gun and revolver in his hands, ran fleetly across the prairie, firing at his pursuers as he ran, and dropping down to load as fast as his weapon became empty. Finally, when nearly dead from the wounds he received from his pursuers, he signified his readiness to surrender; but even after they approached him his bloodthirsty spirit was not satisfied, and he fired the two remaining shots in his revolver at the crowd. Fortunately, no one was injured, though Mr. Dickinson had part of his coat shot off. After the murderer was secured he was taken back to the house from which he had fled and hung by the neck until he was dead. Before his death he tried to implicate an innocent negro in the murder of Mr. Hayford, but having been caught in the falsehood, he confessed to having committed the deed himself. He also confessed to having killed five other men, and also to having shot at Major Mafford last winter. - All reports indicate that he has always been a character with scarcely a parallel in the annals of history for desperation.

and bloodthirstiness. - We are informed that at one time, in the Cherokee Nation, 25 men attempted to arrest him but failed on account of his desperation. The colored people, who know him, were terrible afraid of him. History has seldom presented a character so utterly lost even to every sentiment of humanity.

As a general rule, we have always depreciated the taking of life except by due process of law, as dangerous to the peace and quiet of the community and to the best interests of society. We have always found that nothing but the most extreme necessity would justify it, but we believe in this instance that necessity existed; for every moment this desperado was allowed to live, endangered the lives of good citizens. We learn that the house he occupied was since burned to the ground. The sufferers from their attempt to arrest him, were among the best of our young men. As members of the police force of this city they have performed their duties faithfully. Generous and brave to a fault, the death of one and the danger to the other creates a spirit of sadness that cannot soon be eradicated.

The body of Mr. Coe was brought into the city, and on Friday after a funeral sermon by Mr. Irwin was escorted by a large procession, headed by the members of the Grand Army of the Republic, to the cemetery where it was interred.

Sequel.

On Thursday night a crowd of about fifty men, still laboring under the excitement growing out of the tragedy of Wednesday, entered the jail and having possessed themselves of the keys took Jackson Mackey and Harry Vann - on the brother who harbored the murderer and the other charged with furnishing provisions and aiding in his concealment, to the ravine near the poorhouse and hung them to a tree where their lifeless bodies were found next morning. So quietly was this done that few in the city except those who participated knew of it until the next morning."

Benjamin Files, being first duly sworn, testified as follows:

Q. MR. WASHINGTON: What's your name? A. Benjamin Files.

Q. Where is your postoffice? A. Fort Scott.

Q. Kansas? A. Kansas, yes, sir.

Q. Were you living there at the close of the war? A. Yes, sir.

Q. Were you living there in '66, December? A. I have lived there ever since.

Q. Did you know Dyer Hayford? A. Yes, sir.

Q. Had you known him before December '66? A. Yes sir, I had known him in the neighborhood of two years before that and knew him up until that time.

Q. Was he killed? A. He was killed at Fort Scott.

Q. Was he killed in the town? A. He was killed just at the brink of the hill along in the mouth; yes, sir he was killed in the city just about the brink of the hill.

Q. About what time of the day was he killed? A. He was killed just after dark, just dark.

Q. Do you know who killed him, who was said to have killed him, who was accused of killing him? A. Yes, sir.

Q. Who? A. Eli Mackey.

Q. Was he a colored man? A. Yes sir, he was.

Q. Did you assist in his arrest? Yes, sir.

Q. Who arrested him? Myself and a man we called Deacon Jones.

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Q That this other man here with you? A Yes, sir.

Q About how long after this reported killing? A I heard the shots fired, then run down there and run over him; I lit a match and this man drew his breath twice. From the time the shots fired I wouldn't it was more than twenty minutes.

Q Twenty minutes? A Yes, sir.

Q Had it become generally known at the time of the arrest? A No, sir.

Q There was no time for the public to know? A Only a few people knew; I heard the shots fired myself and run down there.

Q And a few people knew that the killing had taken place before he was arrested? A Yes, sir.

Q And the excitement then, was that after that? A Yes, sir, they didn't have time to know it.

Q Was he put in jail? A Yes, sir.

Q You remember how long he remained in jail? A Till about the twentieth, sometime in February, 26th I think it was.

Q Of February following, of '67? A Yes, sir.

Q Well did he make his escape? A He got away.

Q He got away? A Yes, sir, he got past the turnkey, Ed Coe.

Q Ed Coe was the turnkey was he? A Yes, sir.

Q I will ask you then if there was any searching parties out for this man? Yes, sir.

Q For how long? I think he was killed on the 20th of March.

Q From then about the 26th of February until the 20th of March people looked for him, a reward offered for him? Yes, sir, some three hundred dollars I believe.

Q Well were there quite a number of people out searching for him? A Yes, sir.

Q Considerable excitement at that time? A Yes, sir.

Q Did people go out in the country looking for him? A Yes, sir, and searched houses and searched lands, they looked around for him, but failed to find him.

Q Up until that time? Yes, sir.

Q You say that was for about three weeks? A Yes, sir, something over three weeks.

Q From the 26th of February up until about the 20th of March? A Yes, sir.

Q Do you know whether this Eli Mackey was reputed to be a Cherokee darkey or not? A Yes, sir, he was.

Q I believe there was a newspaper account to the effect that when he was captured he was hung up there? A He was killed, yes, sir.

Q That I want to get particularly from you was whether there was any search made for him at the time he was killed or whether search was made for him after his escape, after the 26th of February? A There was no search made for Mackey until he broke jail.

Q No houses searched, nor no wagons, nor no nothing when he was first captured? A He was in jail, I don't think it was much over a half an hour, I don't think it was any hours in jail in not much over half an hour after he shot Hayford; I heard the shot that killed Hayford.

Q And you helped to arrest him? Yes, sir, I got to Hayford before he died, but he was too far gone; I lit a match and he was too far gone to speak.

Q You had known Hayford prior to that time? A Yes, sir, him and me was friends.

Q You was a friend of his? A Yes, sir.

H. C. Jones, being first duly sworn, testified as follows:

- MR. HASTINGS: What is your name? A H. C. Jones.
- Q What is your postoffice? A Fort Scott.
- Q Kansas? A Kansas, yes, sir.
- Q What is your age, please sir? A 55.
- Q Were you holding any office in the town of Fort Scott, Kansas, in December of '86? A I was.
- Q Well were you holding any office at the time a man by the name of Hayford was killed by Eli Mackey? A I was.
- Q What office was that? A City marshal, called town constable.
- Q You was a city policeman? A Yes, sir.
- Q Did you assist in his first arrest? A I did.
- Q Who assisted you in the arrest? A Mr. Benjamin Files.
- Q This man that's present here? A Yes, sir.
- Q Did you hear the shots that killed Hayford? A I did.
- Q How soon after Hayford was killed was Mackey arrested, Eli Mackey?
- A 20 or 25 minutes, inside of a half hour at most.
- Q Very short time? A Yes, sir.
- Q Had any houses or wagons or anything of that kind been searched in the mean time? A No, sir, there was no knowledge.
- Q People didn't generally know it up to that time? A No, sir.
- Q Put in jail then? A He was taken right to the jail as soon as he was arrested, he was hurried off to jail for fear of any mob violence.
- Q Well how long did he remain in jail, do you remember? A Why I think something like six weeks or more.
- Q Well the Fort Scott Monitor puts it about February 26th? A I presume that was right, it was correct. It was hard for me to remember exactly.
- Q Well he remained in jail up to that time? A Up till that time, he was not out of jail except while he was under guard.
- Q He made his escape then? A He made his escape, yes, sir, at the time.
- Q You know how long he was at large? A Well I put it something like three weeks.
- Q I will ask you if there was any searches at that time made for him?
- A You mean after?
- Q When he got away after February 26th? A Oh yes, sir, there was considerable hunt for him at that time.
- Q Reward offered for him? A Yes, sir, reward offered.
- Q People searched around in the country for him? A There was quite a number of both officials and independent searches, they would search for him for the first couple of weeks of his escape from there.
- Q He was afterwards captured was not? A Yes, sir, he was located afterwards, he hadn't been out of a radius of probably ten miles from there after he got away, he was captured.
- Q Do you know whether this Eli Mackey was reputed to be a Cherokee colored man? A He was called a Cherokee refugee, yes, sir, had the reputation, that is his name, of being a Cherokee nigger.
- COMMISSIONER: You are positive about those dates? A To the best of my knowledge now, I would have put it, that is, a week before the holidays, and I knew it was only a few days before Christmas when the killing was done.
- Q '87? A In '86 the killing was done.
- Q Few days before Christmas of '86? A Yes, sir.

MR. HASTINGS: The Cherokee Nation asks that all the testimony introduced in the case of Aaron Webster, D-218, with reference to the return of the Webster detachment, be introduced and made a part of the record in this case.

MR. BROWN: Come now the agent for the applicant and moves the Commission to strike from the records of this case all the testimony taken on this day, for the reason that it is incompetent, irrelevant, and immaterial and not the best evidence, it being duly resister.

COMMISSION: The request of the representative of the Cherokee Nation will be complied with, and the testimony filed.

This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. D-394, D-395, D-396, D-397, D-398, D-399, D-400, D-401, D-402, D-403, D-404, D-405, D-406, D-407, D-408, D-409, D-410, D-411, D-412, D-413, D-414, D-415, D-416, D-417, D-418, D-419, D-420, D-421, D-422, D-423, D-424, D-425, D-426, D-427, D-428, D-429, D-430, D-431, D-432, D-433, D-434, D-435, D-436, D-437, D-438, D-439, D-440, D-441, D-442, D-443, D-444, D-445, D-446, D-447, D-448, D-449, D-450, D-451, D-452, D-453, D-454, D-455, D-456, D-457, D-458, D-459, D-460, D-461, D-462, D-463, D-464, D-465, D-466, D-467, D-468, D-469, D-470, D-471, D-472, D-473, D-474, D-475, D-476, D-477, D-478, D-479, D-480, D-481, D-482, D-483, D-484, D-485, D-486, D-487, D-488, D-489, D-490, D-491, D-492, D-493, D-494, D-495, D-496, D-497, D-498, D-499, D-500, D-501, D-502, D-503, D-504, D-505, D-506, D-507, D-508, D-509, D-510, D-511, D-512, D-513, D-514, D-515, D-516, D-517, D-518, D-519, D-520, D-521, D-522, D-523, D-524, D-525, D-526, D-527, D-528, D-529, D-530, D-531, D-532, D-533, D-534, D-535, D-536, D-537, D-538, D-539, D-540, D-541, D-542, D-543, D-544, D-545, D-546, D-547, D-548, D-549, D-550, D-551, D-552, D-553, D-554, D-555, D-556, D-557, D-558, D-559, D-560, D-561, D-562, D-563, D-564, D-565, D-566, D-567, D-568, D-569, D-570, D-571, D-572, D-573, D-574, D-575, D-576, D-577, D-578, D-579, D-580, D-581, D-582, D-583, D-584, D-585, D-586, D-587, D-588, D-589, D-590, D-591, D-592, D-593, D-594, D-595, D-596, D-597, D-598, D-599, D-600, D-601, D-602, D-603, D-604, D-605, D-606, D-607, D-608, D-609, D-610, D-611, D-612, D-613, D-614, D-615, D-616, D-617, D-618, D-619, D-620, D-621, D-622, D-623, D-624, D-625, D-626, D-627, D-628, D-629, D-630, D-631, D-632, D-633, D-634, D-635, D-636, D-637, D-638, D-639, D-640, D-641, D-642, D-643, D-644, D-645, D-646, D-647, D-648, D-649, D-650, D-651, D-652, D-653, D-654, D-655, D-656, D-657, D-658, D-659, D-660, D-661, D-662, D-663, D-664, D-665, D-666, D-667, D-668, D-669, D-670, D-671, D-672, D-673, D-674, D-675, D-676, D-677, D-678, D-679, D-680, D-681, D-682, D-683, D-684, D-685, D-686, D-687, D-688, D-689, D-690, D-691, D-692, D-693, D-694, D-695, D-696, D-697, D-698, D-699, D-700, D-701, D-702, D-703, D-704, D-705, D-706, D-707, D-708, D-709, D-710, D-711, D-712, D-713, D-714, D-715, D-716, D-717, D-718, D-719, D-720, D-721, D-722, D-723, D-724, D-725, D-726, D-727, D-728, D-729, D-730, D-731, D-732, D-733, D-734, D-735, D-736, D-737, D-738, D-739, D-740, D-741, D-742, D-743, D-744, D-745, D-746, D-747, D-748, D-749, D-750, D-751, D-752, D-753, D-754, D-755, D-756, D-757, D-758, D-759, D-760, D-761, D-762, D-763, D-764, D-765, D-766, D-767, D-768, D-769, D-770, D-771, D-772, D-773, D-774, D-775, D-776, D-777, D-778, D-779, D-780, D-781, D-782, D-783, D-784, D-785, D-786, D-787, D-788, D-789, D-790, D-791, D-792, D-793, D-794, D-795, D-796, D-797, D-798, D-799, D-800, D-801, D-802, D-803, D-804, D-805, D-806, D-807, D-808, D-809, D-810, D-811, D-812, D-813, D-814, D-815, D-816, D-817, D-818, D-819, D-820, D-821, D-822, D-823, D-824, D-825, D-826, D-827, D-828, D-829, D-830, D-831, D-832, D-833, D-834, D-835, D-836, D-837, D-838, D-839, D-840, D-841, D-842, D-843, D-844, D-845, D-846, D-847, D-848, D-849, D-850, D-851, D-852, D-853, D-854, D-855, D-856, D-857, D-858, D-859, D-860, D-861, D-862, D-863, D-864, D-865, D-866, D-867, D-868, D-869, D-870, D-871, D-872, D-873, D-874, D-875, D-876, D-877, D-878, D-879, D-880, D-881, D-882, D-883, D-884, D-885, D-886, D-887, D-888, D-889, D-890, D-891, D-892, D-893, D-894, D-895, D-896, D-897, D-898, D-899, D-900, D-901, D-902, D-903, D-904, D-905, D-906, D-907, D-908, D-909, D-910, D-911, D-912, D-913, D-914, D-915, D-916, D-917, D-918, D-919, D-920, D-921, D-922, D-923, D-924, D-925, D-926, D-927, D-928, D-929, D-930, D-931, D-932, D-933, D-934, D-935, D-936, D-937, D-938, D-939, D-940, D-941, D-942, D-943, D-944, D-945, D-946, D-947, D-948, D-949, D-950, D-951, D-952, D-953, D-954, D-955, D-956, D-957, D-958, D-959, D-960, D-961, D-962, D-963, D-964, D-965, D-966, D-967, D-968, D-969, D-970, D-971, D-972, D-973, D-974, D-975, D-976, D-977, D-978, D-979, D-980, D-981, D-982, D-983, D-984, D-985, D-986, D-987, D-988, D-989, D-990, D-991, D-992, D-993, D-994, D-995, D-996, D-997, D-998, D-999, D-1000.

Arthur G. Groninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Groninger.

Subscribed and sworn to before me this 14th day of May, 1902.

(Seal)

(Signed) Philip B. Hester,

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original now on file with the Commission as the same was made by me.

Arthur G. Evans

Subscribed and sworn to before me this 14th day of May, 1902.

Philip B. Hester

Notary Public.

To be filed with *135*

Becky Webber

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T.; May 27, 1902.

In the matter of the application of Joseph Smith et al. for
enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO D-626.

APPEARANCES:

Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that all the testimony taken by the Cherokee Nation in the case of F. D-818, also the testimony in Freedman Doubtful 216, also the testimony of Reuben Sanders, together with the testimony taken on the part of the Cherokee Nation in the case of Freedman Doubtful 391, be introduced and made a part of the record in this case.

MR. SMITH: The applicant objects to the introduction of the above offered matter for the reason that the same is not the best evidence, and that it is incompetent, irrelevant and immaterial, and does not tend to prove any issue in this case, and because no foundation was laid for the offer of impeaching or contradicting evidence by asking witnesses when upon the stand in this case whether they had made such statements, and because the same is not the best evidence, and because the same is hearsay, and because it was not taken under the rules and regulations of this Commission with reference to notice and opportunity for cross-examination so far as it applies to this case.

COMMISSION: This testimony will be filed with and made a part of the record in the following freedmen cases: Becky Webber, D-435; Lewis Webber, Sr., D-554; Russell Henderson, D-929; William Webber, D-928; Birt Henderson, D-943, and in the case at bar, being that of Joseph Smith, D-626. It appears that the applicants in the above cases are represented by Mellette & Smith.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 7th day of July, 1902.
(SEAL)

(Signed) P. G. Reuter.

I, A. R. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes I correctly copied the original proceedings had in this case, and that the foregoing is a correct copy thereof.

A. R. Cheever

Sworn to and subscribed before me this 7th day of August, 1902.

Amice C. Jones
Notary Public.

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THE FIVE CIVILIZED TRIBES.

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[Signature]

ACTING COMMISSIONER

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EX. 1000000000

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, N. Y. May, 29th 1902.

Mellotte & Smith, attorneys for the applicants.

W. F. Hastings, for the Cherokee Nation.

In the matter of the application of Beckey Webber for the enrollment of herself as a Cherokee Freedman; she being sworn by Commissioner, C. R. Breckinridge, testified as follows:

BY COM'R BRECKINRIDGE:

- Q What is your name? A Beckey Webber.
Q How old are you? A. I don't know sir.
Q Well about how old as near as you can come to it? A. I can't tell you.
Q About 70 years old? A. I don't know, I might be and I might not be.

Well put her down as 45 years old.

- Q What is your post office? A Ruby.
Q In that district do you live? A. Goowasocowee.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir I ought to be.
Q Do you want to have anybody besides yourself put on the rolls? A. I have two sons.
Q Are they under 21 years of age? A. No sir they is grown.
Q Well they will have to apply for themselves? A Yes sir.
Q Do you apply then just for yourself? A. Yes sir.
Q You have no husband? A No sir.
Q How long have you lived in the Cherokee Nation? A. I was born and raised here sir.
Q Lived here all your life then? A. Yes sir.
Q Give me the name of your father? A. Mose Webber.
Q Is he dead? A. Yes sir.
Q How long has he been dead? A. I don't know sir; they said he died when I was five years old.
Q Give me the name of your mother? A. Hannah Webber.
Q Is she dead? A. Yes sir.
Q How long has she been dead? A. Over 20 years I know.
Q Were you a slave in the Cherokee Nation when the Civil war broke out?
A Yes sir.
Q To whom did you belong? A. Robin Webber.
Q You have been married haven't you? A. Yes and twice ago.
Q How many times have you been married? A. One time.
Q What was your husband's name? A. Nelson Webber.
Q He is dead is he? A. Yes sir.
Q How long has he been dead? A. Not so very long before the war.
Q And you have never married since he died? A. No sir.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1890 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

- Q Did you draw your strip money? A. Yes sir.

Beckey Webber 2.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 142 No. 3512, Beckie Webber, Goo-wee-soo-wee district.

The Wallace roll of the Cherokee Nation examined and the applicant identified thereon as follows:
Page 130 No. 3117, Becky Webber, Goo-wee-soo-wee district.

By Mr. Mellette, of counsel for applicant:

Q Where did you live in the Cherokee Nation when the war broke out? A On Caney, 20 miles below Tahlequah.
Q Did you live with your master Robin Webber? A Yes sir.
Q Was Robin Webber a Cherokee citizen? A Yes sir.
Q He was a Cherokee Indian was he? A Yes sir.
Q Did you leave the Cherokee Nation during the war? A Yes sir.
Q Where did you go? A Went to Kansas.
Q When did you return to the Cherokee Nation? A In '66.
Q About what time in '66? A On the first of August.
Q Who came with you? A My uncle, this here Sam Webber's father.
Q What was his name? A Sam Webber too.
Q Where have you lived since you returned to the Cherokee Nation about the first of August 1866? A Came on Big creek and there was nobody there when we came there, and after that we got scattered and I was on Cedar creek.
Q Have you ever lived out of the Cherokee Nation since you came back in '66? A No sir.
Q Do you own a place on the Public Domain of the Cherokee Nation? A I have a place on Salt creek.
Q In what Nation? A This Nation, close to Ruby.
Q How long have you owned a place in the Cherokee Nation? A Not very long; I don't know just how long; I was not able to fix me a place myself before for I was in bed most of the time and could not get around much.
Q Do you remember coming back from Kansas to the Cherokee Nation in '66--do you remember coming? A Yes sir.
Q Can you remember any one else except Sam Webber who was with you when you came? A Uncle Peter Maign and Joe Ross, there was some of them ahead of us and some of the behind us; I don't remember who all came along.

By W. W. Hastings, Cherokee Representative:

Q Do you know the years, Auntie? A Yes sir.
Q Do you know one year from another? A Yes sir.
Q You know then when '66 came? A Yes sir.
Q You have known the years since that time have you? A Yes sir--we didn't particularly know ourselves when it came, but the folks there said that it was the time for us to come on back home and get us a place; my uncle had come down here before that and located a place and come back for us and took us back.
Q Your uncle had been down here then before you came with him? A Yes sir.
Q Did he have a house fixed for you when you came? A Just had the logs cut I guess, I never went into the woods though to see for I was afraid of snakes.
Q Didn't you come to where my house was? A There was a part of a house that uncle Peter Maign had.
Q Was it cold weather when you got back to the Nation, Auntie? A

Q Was it cold weather when you got back to the Nation, Auntie? A. August wasn't cold was it?

Q Then it was not in December when you came back here? A. No sir.

Q How many wagons were along with you when you came? A. I can't tell.

Q Was there as many as a thousand? A. No sir I don't think there was.

Q How many came in the crowd that you came in? A. 4 or 5.

Q Name them? A. I can't.

Q Try and name as many as you can? A. All I can think of now was Uncle Joe Ross and Peter Neige—we didn't all just come together, there was people ahead of us and people behind us.

Q Were there any people at Big Creek when you got there? A. I never seen any.

Q Were there any houses there? A. There might have been I never got out of the wagon to go and see, it was all wild woods and I was scared.

Q Did you make a crop there that year? A. Some of them did, I didn't; they just planted what they could, it was too late in August to make a crop.

Q How did you live when you first came down there? A I had to stay there with Uncle Sam Webber.

Q How long did you stay with him, Auntie? A. I staid there about a month, maybe longer.

Q You didn't have a husband then? A. No sir.

Q Did you have any children? A. Yes sir two.

Q What were their names? A. Lydia and Lewis.

Q They came with you did they? A. Yes sir.

Q And after you staid with our Uncle Sam Webber about a month, did you move to a place of your own? A. We moved to a house that some colored people had been living in.

Q What was their names? A. I don't remember, they moved further down and let us have the house.

Q Don't you remember their names? A. I don't know them, they was not Cherokee raised people.

Q Was they state raised colored people? A. Yes sir.

Q You didn't know them before the war? A. No sir, we never saw any state raised colored people then or white folks either.

Q How far were they living from the point that you came to? A. Not very far.

Q A mile? A. No sir not quite a mile.

Q Had they made a crop there that year? A. No sir.

Q They had a house though? A. Yes sir a log house.

Q Nobody else living around there then? A. No sir.

Q You moved into the house that they left there? A. Yes sir.

Q How long did you live there? A. Two months I guess, anyway we lived there until Ellis come and then he made a house on Cedar creek and we all moved there.

Q How far from where you were on Big Creek was it to where Ellis made a place on Cedar creek? A. About six miles.

Q As I understand you Auntie, you say you lived with your Uncle Sam Webber a month and then lived in this house which had been vacated by those state raised colored people for two months about, and then moved to Cedar creek where your son Ellis had built a house, is that right? A. Yes sir.

Q Ellis was your son was he? A. Yes sir.

Q Did you meet any Cherokees on the road while you were coming here from Kansas in '67? A. We met a man that we knew on the road.

Q What was his name? A. George Walker.

Q How far was it from Big Creek where you met him? A. I can't tell you.

Q In what neighborhood was it? A. Between that and Cherokee I reckon.

Q Auntie, what year is this? A. I don't know.

Q Do you know any other year except '67? A. I might have if I had time.

Beckey Webber 3.

raised up to it.

- Q Do you know the year of 1870? A No sir.
Q Do you know the year of 1880? A No sir.
Q Do you know which of these years comes first? A. January.
Q That is the year that comes first is it? A. Yes sir, that is the first of the year.
Q Which of these years I have mentioned comes first? A. I don't know and can't tell you.
Q How far did you live from Dan Sanders when you first came back to the Cherokee Nation? A. Not far.
Q Was he living there when you came? A. No sir.
Q Which came first, you or him? A. I can't say which came first; he might have been there somewhere in the woods, but I did not get out to see, I was afraid to get out of the wagon; I was afraid of snakes; the woods was all wild and I wasn't used to anything like that before.
Q Where did you make the first crop you made after you came down? A. I didn't make no crop myself, Ellis made a crop.
Q Well where did Ellis make a crop first? A. On Cedar creek.
Q About how far from Coffeyville was that? A. 14 miles.
Q Near what town was that now? A. I don't know that there is any town there at all.
Q I mean the nearest town to it? A. Lenapah I guess is the nearest.
Q Do you live there yet? A. No sir.
Q How long did you live there? A. I can't tell, I don't know.
Q Two or three years or more? A. I didn't live there that long.
Q You made one crop there though? A. I wasn't able to make no crop myself.
Q Your son did though? A. He tried to.
Q Didn't you live with him? A. Yes sir.
Q Didn't you know what he was doing there? A. Some times I did, and some times I didn't, I was in bed sick most of the time;—I think I lived with Ellis three or four years—two years before and two years afterwards his wife left him and I staid with the children.

SAM WEBBER, called and sworn as a witness on the part of the applicant by Commissioner C. R. Breckinridge, testified as follows:

By Com'r Breckinridge:

- Q What is your name? A. Sam Webber.
Q How old are you? A. About 28.
Q What is your post office? A. Nowata.
Q How long have you lived in the Cherokee Nation? A. I was born and raised here; went out and came back after the war.
Q Have you lived here ever since? A. Yes sir.

By Mr. Mallette:

- Q Are you on the roll of 1880—the freedman roll of 1880 as a citizen of the Cherokee Nation? A. Yes sir.
Q Have you been listed for enrollment by this Commission yet? A. No sir.

By Mr. Mallette: May it please the Commission, we should like to have the 1880 enrollment of this witness entered in the record:

The 1880 authenticated roll of the Cherokee Nation examined and the name of the witness referred to found as follows:
Page 211, No. 2401, Samuel Webber, Greenwood district.

- Q Do you know the applicant, Beckey Webber? A. Yes sir I know her.
Q Do you know when she returned to the Cherokee Nation after the war,

and where from? A. Fort Scott Kansas in the fall of '66
Q How do you know this? A. She came with us when she came.
Q She came with you and who else? A. My father, his name was Sam Webber too.
Q Where has she lived since that time? A. She has lived on Cedar creek a while just over west of us, and now she lives on the prairie near Big creek.

By V. V. Hastings:

Q What time in the fall of '66 was it that she came with you? A. I don't remember the exact date.
Q You had been here before she came with you? A. Yes sir, we had been here twice before, one of them we went to Fort Gibson on and this was the third trip that we came down.
Q And she came on this third trip did she? A. Yes sir.
Q It must have been getting dark along in the end of fall for it was kind of cool, we had to build fires at night when we camped.
Q And you are sure that she came on that trip? A. Yes sir.
Q Did she have a wagon? A. She came with us in father's wagon.
Q Did your father have two wagons? A. I had one and father had one.
Q Who came with her of her children? A. Ellis, Lewis and Lydia.
Q These were her three children were they? A. Yes sir.
Q You know then well did you? A. Yes sir, played with them.
Q And you remember distinctly that they came with you on that trip? A. Yes sir.
Q All three of them? A. Yes sir.
Q And you knew that this woman came with you on that third trip? A. Yes sir.
Q You had been here before and built a house ready to move to had you?
A Yes sir.
Q She came with you to Big Creek? A. Yes sir.
Q Who else had houses there? A. Whole Peter Meigs had one that he bought from Henry Hair, and Mike Sanders had one.
Q Did you come down here the first time that your father came down after the war? A. Yes sir, I went with him when he went to see Chief Downing.
Q That was your first trip? A. Yes sir.
Q That was a good while before the treaty was made? A. Yes sir.
Q Where did you go to see Chief Downing? A. Where he lived.
Q Where did he live? A. I stopped at Fort Gibson and father went to see him and left me at Fort Gibson.
Q Was it in Tahlequah where he lived then? A. He did not live in Tahlequah then, somewhere in the country, I didn't go to the house.
Q That was your first trip here? A. Yes sir.
Q Who was with your father and you at that time? A. I don't believe that I can name all the people that was along, there was Jess Brown; Lem May, a fellow named John Stock, a fellow named who came from the Creek Nation named Fobis Brew, and this Henry Hair, a man named Lornal Johnson and John Gurrey, and some more were along I don't remember all of them.
Q These are the people that went to Fort Gibson with you and your father the time that you say he went to see Chief Downing? A. Yes sir.
Q And they or some of them, went to see Chief Downing did they? A. Yes sir my father and Henry Hair did.
Q Are you positive that this was your first trip? A. Yes sir.
Q About what time of the year was it? A. Along just after we planted corn, I don't remember exactly.
Q In the spring of the year? A. Must have been long in the spring time.
Q How long after the war was over? A. Peace was just declared then—then—they claimed it had—and we went down to see the Chief about our

ing back home.

Q That was what you went to see the Chief about was it? A. Yes sir.
Q Chief John Ross was dead then was he? A. Yes sir old John Ross was dead and Downing was acting Chief.

Q How long had he been dead? A. I cant tell you that at all cause I dont know.

Q How did you come that first trip, on horseback or in wagons? A. On horse back and there was one wagon along.

Q Whose wagon was that? A. Jess Brown.

Q Is Jess Brown living now? A. No sir, he is dead now.

Q When did you come the second trip? A. We left Kansas long in the latter part of July '88 and came to Big creek and built houses.

Q How many houses were built at that time? A. There was several walls put up, some of them so high (indicating) and some of them so high, (indicating)

Q Who came with you on this second trip? A. Whole Mike Sanders, Ruben Sanders, Wilson Fowers, Abe Hair, whole Russel Vann, Abe and Mike Fields a fellow named Abe Ballard, and Henry Hair, Dick Thurman, Aaron Wright —no Aaron Wright wasn't along that trip, he came the third trip. Lot of young men came along but I just cant think of any more just now.

Q You say you built houses that time? A. Yes sir.

Q And then you went back to Kansas? A. Yes sir.

Q When did you return to third time? A. Along in the fall same time.

Q Who came along with you on this third trip? A. A lot of them, I cant name them all.

Q How old are you now? A. 88 about, I dont know my exact age.

Q You were just a young man at that time? A. Yes sir.

Q You are positive that this woman came with you then? A. Yes sir.

Q And these three children? A. Yes sir.

Q Has this woman been here ever since? A. Yes sir, I have seen here pretty much.

Q Has she ever been back to Kansas? A. I never heard of it, I did not live around there all the time, I never staid at home all the time, I have been in the lower part of the Nation; I never heard of her going back to Kansas though.

Q How long did she stay with your folks after she settled there first? A. Not very long.

Q She lived on Cedar creek after that didn't she? A. Yes sir.

Q And lived with her son Ellis? A. Yes sir.

Q That was the next spring after she came down wasn't it? A. I dont remember just when it was, he went over there to get him a claim and built a house and then took her there, I dont remember just when it was, never paid no attention to it.

By Mr. Mellette:

Q Did you have any brothers or sisters in '88? A. Yes sir.

Q What part of them came back to the Indian Territory? A. One of my sisters came ~~and one of my brothers came~~ ahead of me—Mr. Brimmett's wife, and one of the little ones came with her. Then there was this little duck leged brother he came along.

Q Have any other brothers? A. Yes sir.

Q What? A. Johnson.

Q Where is he? A. Deft.

Q Was it the same year that this applicant came with you that you and your father went to Fort Gibson when he went to see Chief Downing? A. Yes sir, same year, we went there in the spring.

By V. W. Hastings:

Q What relation are you to the applicant? A. We are cousins I guess from all accounts.

Q All of you stopped at Fort Gibson while your father and some one else went over to see the Chief? A. No and Jess Brown staid there.

Q Who did you stay with? A. No one, we camped in Jess Brown's wagon, he has brought his wagon along with a load of meal to sell.

Q How long did you stay there? A. Three weeks and then we went on the Verdigris river and camped out and hunted and fished. No, I am a little ahead of my story, we came down here the first time in the early winter part of '86, in the winter like, and then we left Fort Gibson and went and camped and hunted on Verdigris, and then in the summer of '86 we went back to Kansas and then came down here again. We went to Fort Gibson and staid there in the winter—and staid there two or three weeks, three or four weeks, and then came right to Pryor's creek and went to Goodies Bluff and on the Verdigris and camped and hunted.

Q How long did you stay at Goodies Bluff? A. Must have been long in the fall of '86 that we went to Fort Gibson and in then in the winter of '86 we hunted on the Verdigris, yes sir, that must have been about it.

Q Who staid with you on Goodies Bluff while you were there hunting? A. Jesse Brown, he was the leader of us boys, he had sold out his meal and came with us, and there was Tobie Drew and Lou May and John Stop and another young Brew, the old man's son, and

Q Was there any woman along? A. There was one woman along with us.

Q You staid then on the Verdigris and hunted until the spring of '86? A. Yes sir.

Q Was your father with you? A. No sir he went back to Kansas from Fort Gibson.

Q Did he take the wagon back with him? A. No sir, Jess Brown had the wagon with him.

Q Now when did you come back here the second trip? A. Last part of July

Q You staid up in Kansas then some three or four months that time before you returned here? A. We got there in March and put in a crop and came back here.

Q Where did you get your provisions when you came here? A. Brought it with us and when we would get out we would go to Fort Scott and get some more.

Q Are you positive now that it was in the winter of '86 that you went to Fort Gibson? A. Yes sir I remember now we took Christmas there.

Q Your purpose there was to see Chief Downing about coming home? A. My father's purpose was to see him.

Q And you just went along to make the trip? A. Yes sir.

By the Commission:

Q You made three trips then before you came down finally with you people? A. Yes sir.

Q You made your first trip about corn planting time in the spring of '86 I understand? A. I told you I just made a mistake about that, we came here in the winter, the snow was on the ground, and we hunted after we left Fort Gibson.

Q Then you went from Fort Gibson to the Verdigris river and hunted? A. Yes sir.

Q You stated a while ago that you came back with these people who are applying now, in the fall of the same year that you went to Fort Gibson in the spring? A. Yes sir, but I made a mistake, we went to Fort Gibson in the winter.

Q When did you first leave Kansas to come back to the Cherokee Nation? A. In '86.

Q What time of the year? A. In the winter, we took Christmas down here.

Q Did you go first to Fort Gibson to see the Chief? A. Yes sir.

Q You went there then in cold weather? A. Yes sir, and father he went

Heckey Webber T.

back to Kansas and we boys staid down here and hunted.
Q When did you make your first trip back to Kansas? A. In March.
Q When you had been hunting on the Virginia, did you go from there to Fort Gibson? A. No sir went to Kansas.
Q You had been in Fort Gibson already? A. Yes sir.
Q That was in March on '06 that you went back to Kansas? A. Yes sir.
Q When did you come again to the Cherokee Nation? A. Middle of July, we started.
Q How long did you stay in the Nation then? A. 3 or 3 weeks, and built and went back to Kansas and sold out everything we had up there and then came back down here to live.

NELSON MURRELL, called and sworn as a witness on the part of the applicant by Commissioner C. R. Breckinridge, testified as follows:

By Com'r Breckinridge:

Q What is your name? A. Nelson Murrell.
Q How old are you? A. 77.
Q What is your post office? A. Coffeyville.
Q In what district do you live? A. Geowascoowee.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Were you out of the Nation during the war? A. Yes sir, I was in the war as a body servant.
Q Where did you go out as a body servant during the war? A. To Kansas.
Q Were you a body servant in the army? A. Yes sir.
Q Were you all the time in Kansas? A. No sir in Missouri and in Arkansas and in the Nation.

By Mr. Mallette:

Q When did you return to the Cherokee Nation after the war? A. My first return to the Nation was in '05.
Q Do you know Heckey Webber, the applicant? A. Yes sir.
Q Do you know when she returned to the Cherokee Nation after the war? A. No sir I don't.
Q When did you first see her in the Cherokee Nation after the war? A. In the fall of '06.
Q Where did you see her that time? A. On Rib Creek, Geowascoowee district.
Q Was that in the Cherokee Nation? A. Yes sir.
Q How did you happen to see her? A. I went up there on a visit.
Q At whose house did you see her? A. Sam Webber's.
Q Was she there at his house? A. Yes sir.
Q Do you know where she has lived since that time? A. I don't know exactly, I have seen her in the Nation off and on all the time; the next time I saw her after '06 was on Cedar Creek some 3 or 4 miles from there.

By W. W. Hastings:

Q You claim to have come back to the Cherokee Nation in '05? A. Yes sir.
Q Where to? A. Virginia River.
Q How long did you remain there? A. 3 months.
Q Long there in the fall of '05? A. Yes sir.
Q Did you make a crop there that year? A. No sir.
Q What was you doing there? A. Trading and trafficking with the Indians.
Q What time of the year did you come down there? A. In the fall.
Q And staid there six months? A. Yes sir.

Beckey Webber 8.

Q By yourself? A. No sir.
Q With whom did you ~~remain~~ stay there? Joe Ross and Frank Hove.
Q Who else? A Just the three of us.
Q What was you trading with the Osages? A Flour.
Q What did you get in return from them? A. Furs, buffalo robes and deer hides.
Q The Osages lived on the Verdigris river that year did they? A. Yes sir.
Q You say you got back here in '65? A Yes sir.
Q When did you leave the Verdigris river? A. In the winter of '66.
Q Did you see any colored people around that year? A Yes sir one man.
Q Who was that? A. Amos Adair.
Q That was during your first trip through was it? A. Yes sir.
Q You were up in that country then? A Yes sir, I was all over that country from there to Coffeyville.
Q That was in the Fall of '65 until along in January or February of '66? A Yes sir.
Q And Amos Adair was the only colored man you saw at that time? A. Yes sir.
Q Were you around Big creek any that time? A. No sir.
Q How far from there? A. Way west of there.
Q How far west? A. As far west as Ganey, on Verdigris not far from Goodies bluff.
Q When did you come down the second time? A. In June.
Q The next June? A. Yes sir.
Q Ed '66? A Yes sir.
Q Where did you come from that time? A. Kansas.
Q Who came with you? A. Joe Ross, Steve Leoney, Raop Fox, Jacob Ross, that is about as many as I can remember.
Q Sam Webber didn't come with you? A. No sir.
Q Did you know him in Kansas? A. Yes sir.
Q Had you seen him in the spring of '66? A I dont think I did.
Q Did you see his father? A. Yes sir.
Q How far apart did you live in Kansas? A. About 15 miles apart I think
Q Do you know when he come down here first? A. I dont know when he started, I didn't see him when he started.
Q Where did Sam Webber located first? A I found him on Big Creek.
Q Did you find him when you came in June? A. Yes sir, when I went over there on a visit.
Q That was your second trip down here? A. Yes sir, I think it was.
Q In June of '66? A It was in the fall cause I was over there on a visit in the fall.
Q How long had they been here then? A. I cannot tell.
Q How far did you live from them then? A. About 15 miles.
Q Where you live now is it? A. Yes sir.
Q Did you have your family with you when you came back in June? A Yes sir.
Q Did you plant a crop that year? A. No sir.
Q Did your family live there all the time? A. Until she died—my wife.
Q Was there any one living where you settled then? A. No sir.
Q No houses there? A. No sir.
Q And you say you never saw the Webbers until in the fall of that year? A Yes sir in the fall I went over there.
Q Was that the first time that you saw them in the Cherokee Nation? A Yes sir.
Q When did you see this applicant, Beckey Webber? A. In the fall of '66
Q You remember distinctly that she was there as you? A. Yes sir.
Q Was her children with her? A. I remember two boys.
Q What was their name? A. Ellis.
Q You dont know how long she had been there? A. No sir.
Q She didn't say? A. No sir.

Q You never went back to Kansas with your family? A. No sir.
Q You are not on the roll of 1880? A. No sir.
Q You were rejected by the Court? A. Yes sir.
Q Who came with you in June? A. Jacob Ross and Dave Looney, and a good many others that I don't remember.

By the Commission:

Q What courts have you applied to for recognition as a Cherokee citizen? A. The Cherokee Courts.
Q Did you ever apply to the Council? A. Yes sir.
Q Why did they reject you? A. Said that they did not have any right to take my application or something like that.
Q You say you came here in the spring of '66? A. Yes sir.
Q Have you lived here ever since? A. Yes sir.
Q When did you apply to the court? A. I applied at different times.
Q Did you apply to the Cherokee Commission on citizenship—the Daniels court? A. Yes sir.
Q Did you ever apply to the United States Court? A. No sir.
Q Did you apply to the Dawes Commission in 1896? A. No sir.
Q But you applied to the Cherokee courts, commissions and council? A. Yes sir, and they decided against me by default.
Q What do you mean by that? A. They never summoned me to come, just decided against me by default.
Q Are you on any of the rolls of the Cherokee Nation? A. I don't suppose I am.
Q Ever draw any money? A. The Wallace money.
Q Draw the Kerns Clifton money? A. Yes sir.
Q How much did you draw? A. \$15.50.
Q That the most you ever drew? A. Yes sir. No I drew the Clifton money.
Q How much did you draw at that time? A. I can count it up about; \$100.00 the first time and drew some from Lipe, fifty some odd, I don't know how much it was exactly in all.
Q Did any of your family draw? A. Yes sir.
Q Did your wife draw? A. Yes sir Flora drew.
Q Any of your children draw? A. No sir.
Q Just you and your wife? A. Yes sir.

By Hellette—

Q You are on the Kerns-Clifton and Wallace rolls then? A. Yes sir.

By Sam'r Breckinridge—

The applicant states that she has lived in the Cherokee Nation all her life except for a brief period during the civil war; she is identified on the Kerns Clifton and Wallace rolls, but not upon the 1880 and 1896 rolls. The testimony in this case is quite voluminous and will need to be carefully reviewed; at present she will be listed for enrollment as a Cherokee Freedman on a doubtful card, and the final decision of the Commission will be made known to her at her post office address. So far there is no dispute made as to that she was a slave of a Cherokee citizen at the time the civil war broke out, and that she was set free as a result of the war.

Shas. van Mease, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above case and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Notary Public, Ill.

Chas. J. ...

Subscribed and sworn to before me this the 1st of June, 1908, at
Chicago, Ill.

[Signature]

Commissioner

320.4

COMMISSION TO THE FIVE CIVILIZED TRIBES

JUN 23 1902

ACTING CHIEF

RECEIVED
JUN 23 1902
U.S. DEPT. OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Cher. Freed. 2-475.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., ~~June~~ May 31, 1902.

In the matter of the application of Sissy Webber for enrollment as a Cherokee freedman.

Applicant appears by Mellette and Smith; Cherokee Nation by Hastings and Davenport.


Mr. Smith:

Applicant desires to offer in evidence a marriage certificate showing the marriage of Sam Whitmire to Lydia Webber.

W. W. Hastings: The same be filed.

Commission: The document will be filed and made a part of the record.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.



Subscribed and sworn to before me this 18th day of June, 1902:



Notary Public.

ONE COPY

Handwritten initials or signature

As a result of the above, the Commission has been advised that the first copy of the original transcript in the name of the Commission is being held by the State and Treasury Department.

(2nd copy) 1. 3 Bureau

Unreplied and under no circumstances shall the Commission be held responsible for the same.

and some of the members of the Commission have been advised that the Commission is in the process of being reorganized and that the Commission is in the process of being reorganized.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, T. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman.

Applicant appears by Hallette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F. D. 492, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Becky Vetter, D 435;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to.

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

A. F. Mc.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Etta Manley, et al.,
for enrollment as Cherokee Freedmen, consolidating the applications
of--

Etta Manely et al.,	Cherokee Freedmen D-353,
Ella Whitmire,	Cherokee Freedmen D-433,
Becky Webber,	Cherokee Freedmen D-435,
Lewis Webber, Sr., et al.,	Cherokee Freedmen D-554,
Joseph Manley, Sr., et al.,	Cherokee Freedmen D-628,
Robert Webber, et al.,	Cherokee Freedmen D-630,
Sam Webber,	Cherokee Freedmen D-663,
Josh Webber,	Cherokee Freedmen D-691,
Sidney West,	Cherokee Freedmen D-564,
Sabra McQueen,	Cherokee Freedmen D-132,
Sarah Chatman, et al.,	Cherokee Freedmen D-678,
Susie Webber (Whitmire) et al.,	Cherokee Freedmen D-680,
Eliza Rogers,	Cherokee Freedmen D-950.

-: D E C I S I O N :-

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Maude Manley for herself (by intermarriage), and her minor children, Etta, Alonzo, Harvey, Freddie, Maynard, Howard and Tessie Manley; by Walter Whitmire for himself and wife, Ella Whitmire, but as the said Walter Whitmire is classified differently from the other applicants herein, he will not be embraced in this decision; by Becky Webber for herself; by Lewis Webber, Sr., for himself and minor children, Lewis, Jr., Cora, Floyd and Beulah Webber; by Joseph Manley, Sr., for himself and wife, Kate Manley, and minor children, Ida, Frank, Sarah, Lela, Joseph, Jr., and Willie Manley, and that subsequent to the filing of the original application, an affidavit which is made a part of the record herein, was filed with the Commission, showing the birth of Daisy Manley on March 24, 1902; by Robert Webber for himself and wife, Margaret Webber; by Sam Webber for himself; by Josh Webber for himself and wife, Mary Webber (by intermarriage); by Sidney West for herself; by Sabra McQueen for herself; by

Sarah Chatman for herself and minor children, Evaline Jimison, Henry Caesar, Jim (James), Julia and Nannie Chatman, by Susie Webber for herself and husband, Frank Webber, and minor children, Julia and Samuel Webber; and by Eliza Rogers for herself. As the status of intermarried citizens is not at this time fixed, the rights of Maude Manley and Mary Webber to enrollment as Cherokee Freedmen by intermarriage will not now be passed upon. It appears that since filing her original application herein the said Susie Webber, was, on April 21, 1902, married to one Isaac Whitmire, and she will now be listed for enrollment as Susie Whitmire. The testimony taken in the cases of Aaron Webber, Cherokee Freedmen D-216, Joe Ross, Cherokee Freedmen D-350, Elizabeth Neigs, Cherokee Freedmen D-391, and Samuel Beck, Cherokee Freedmen D-775, is filed with, and made a part of the record herein. The record further shows that on January 2, 1904, this Commission rendered its decision, enrolling said Sabra McQueen as a Cherokee Freedman; that said decision was duly forwarded to the Commissioner of Indian Affairs, and that upon request of this Commission said decision was returned to it for reconsideration. And that on March 5, 1904, this Commission rendered its decision herein enrolling Etta, Alonzo, Harvey, Freddie, Maynard, Howard and Tessie Manley as Cherokee Freedmen; that subsequent thereto the Cherokee Nation filed its protest against said decision, and a motion to re-open said case and introduce the evidence of one Lydia Barton, taken in Cherokee Freedmen D-391; and that on April 21, 1904, this Commission granted said motion, to which applicants objected.

The evidence herein shows that the applicants, Becky and Lewis Webber, Sr., were slaves of a Cherokee citizen at the commencement of the Rebellion; that during said Rebellion they left the Cherokee Nation and did not return thereto within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to said Nation. The minor applicants, Lewis, Jr., Cora, Floyd and Beulah Webber, are children of the said Lewis Webber, Sr., and possess no rights to enrollment except as his descendants. The said Becky, Lewis, Sr., Lewis, Jr., Cora, Floyd and Beulah Webber can not be identified on the Cherokee authenticated tribal roll of 1880.

The evidence further shows that the applicants, Robert and Margaret Webber were slaves of Cherokee citizens at the commencement of the Rebellion; that they were taken out of the Cherokee Nation during said Rebellion, but that said Robert Webber returned thereto within the time specified in the above mentioned decree, and has since continuously resided therein. Said Margaret Webber did not return to the Cherokee Nation within the time specified in said decree, and she can not be identified on the Cherokee authenticated tribal roll of 1880. The applicants, Ella Whitmire, Sam and Josh Webber, and Kate Manley, are children of the said Robert and Margaret Webber, were born since 1866, and have continuously resided in the Cherokee Nation since birth. The minor applicants, Ida, Frank, Sarah, Lola, Joseph, Jr., Willie and Daisy Manley, are children of the said Kate Manley, were born since 1880, and have continuously lived in the Cherokee Nation all their lives.

The evidence further shows that the applicant, Joseph Manley, Sr., was born since 1866, and possesses no rights to en-

rollment except as the descendant of Alonzo Manley (Cullen), and Eliza Manley, and that the minor applicants, Etta, Alonzo, Harvey, Freddie, Maynard, Howard and Tessie Manley, were born since 1880, and possess no rights to enrollment except as descendants of the said Alonzo Manley (Cullen); that the said Alonzo Manley (Cullen), was a free colored person residing in the Cherokee country, and that the said Eliza Manley was the slave of a Cherokee citizen, at the commencement of the Rebellion; and that during said Rebellion they left the Cherokee Nation and did not return thereto within the time specified in said above mentioned decree. Neither Joseph Manley, Sr., nor Alonzo Manley (Cullen), or Eliza Manley, can be identified on the Cherokee authenticated tribal roll of 1880.

The evidence further shows that the applicant, Sidney West, was the slave of a Cherokee citizen at the commencement of the Rebellion; that she was taken from the Cherokee Nation during said Rebellion, but returned thereto and established a residence therein within the time specified in said above mentioned decree, and has since continuously resided within the domain of the Five Civilized Tribes. (It appears that after the close of the war the said Sidney West returned to the Cherokee Nation with her husband, Charley Chambers. The said Charley Chambers is duly identified on the Cherokee authenticated tribal roll of 1880, page 83, No. 596, Cooweescoowee District, and he has been listed for enrollment on Cherokee freedmen straight card No. 1017).

The evidence further shows that the applicants, Sabra McQueen and Eliza Rogers, are children of the said Charley Chambers and Sidney West, were born during the Rebellion, and brought to the Cherokee Nation by their parents on their return as above indicated, and have since continuously resided within the domain of the Five Civilized Tribes; that the applicants, Sarah Chatman and Susie Whitmire, are children of the said Sidney West, were born since 1866, and have continuously resided within the domain of the Five Civilized Tribes since birth; and that the minor applicants, Evaline Jimison, Henry Caesar, James, Julia and Nannie Chatman, and Julia and Sammel Webber, are children of the said Sarah Chatman and Susie Whitmire, were born since 1880, and have continuously lived with their mothers since birth.

The evidence further shows that the applicant, Frank Webber, died on June 13, 1901. An affidavit to that effect is filed herewith and made a part of the record herein.

Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission that the applications for the enrollment of Becky Webber, Lewis Webber Sr., Lewis Webber, Jr., Cora Webber, Floyd Webber, Beulah Webber and Margaret Webber, Joseph Manley, Sr., Etta Manley, Alonzo Manley,

Harvey Manley, Freddie Manley, Waynard Manley, Stewart Manley and Jessie Manley, as Cherokee Freedmen, should be denied, under the provisions of the Act below noted; and that Robert Webber, Sam Webber and Josh Webber, Eliza Whitmire, Kate Manley, Ida Manley, Frank Manley, Sarah Manley, Lela Manley, Joseph Manley, Jr., Willie Manley and Daisy Manley, Sidney West, Laura McQueen, Sarah Chismen, Evaline Jenson, Henry Caesar, Jim Chatman, Julia Chatman and Annie Chatman, Susie Whitmire, Julia Webber and Samuel Webber (son of Susie and Frank Webber), and Eliza Rogers, should be enrolled as Cherokee Freedmen, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered. And it is further ordered that the application for the enrollment of Frank Webber as a Cherokee Freedman be, and the same is, hereby dismissed, in accordance with the provisions of section twenty-five of the Act of Congress approved July 1, 1902, (32 Stat., 716).

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tans Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this Jan 5 1905

6

70435

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JUN 12 1901

[Handwritten signature]

COMMISSIONERS:
HENRY L. DAWES.
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chelsea, Indian Territory, June 18th, 1901.

Received of the Commission to the Five Civilized Tribes
one copy of the original testimony of June 18th, 1901, in the
matter of the application of Becky Webber for the enrollment of
herself as a Freedman of the Cherokee Nation.

W. M. Little

Attorneys for Applicants.

Cherokee F. #D435.

FD 438

D.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190...

Given under my hand this
day of A. D. 190...

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

day of **SEP 23 1901**, 190...
Mellish & Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190...

Subscribed and sworn to before me
this

Notary Public.
DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 25 1901

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Becky
Webber
for enrollment as Cherokee citizens:

Case No. D 435

To Becky
Webber or Mellette & Smith her Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 26th 1901 10:00 A M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sept. 21st. 1901.

By
Attorneys for the Cherokee Nation.

F. D. 435

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190.....

Given under my hand this
day of A. D. 190.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

1st day of Feb, 1902.

Mellie & Smith,

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190.....

Subscribed and sworn to before me
this

Notary Public.

FILED
FEB 6 1902

ACTING CLERK

NOTICE!

IN THE MATTER OF the application of Rebecca Webber
for enrollment as Cherokee Freedmen:

Case No. F. D. 435

To Rebecca Webber, or Melittus Smith, attorneys

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I.T. Indian Territory, on February 3rd 1902 or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this January 28th 1902

L. B. Bell
Jas. S. Davenport
W. W. Hastings

Attorneys for the Cherokee Nation.

N 19435
F. D. 435-

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of A. D. 190.....

Given under my hand this.....
day of A. D. 190.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

day of 2/19, 1902

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the day of A. D. 190.....

Subscribed and sworn to before me
this.....

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
FEB 13 1902

ACTING COMMISSIONER

NOTICE!

IN THE MATTER OF the application of Becky Webber
for enrollment as Cherokee Freedmen:

Case No. F. D. 435—

To Becky Webber or Mellette & Smith attys

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on FEB 17 1902 at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this FEB 8 1902

L B Bell

W. W. Hastings
Jess. S. Davenport

Attorneys for the Cherokee Nation.

F. D. 435

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190.....

Given under my hand this
day of A. D. 190.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

day of 2-20, 1902

William H. Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190.....

Subscribed and sworn to before me
this

Notary Public.

MISSION TO THE FIVE CIVILIZED TRIBES
FILED
FEB 24 1902

W. H. Smith
ACTING MARSHAL

NOTICE!

IN THE MATTER OF the application of Becky Webber.
for enrollment as Cherokee Freedmen:

Case No. F. D. 435.

To Becky Webber, Ruby, I. T. Mullin

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on Mar. 3rd, 1902 at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this FEB/4/1902 Feb'y 14. 1902.

L B Bell

W. W. Hastings

Jess Davenport
Attorneys for the Cherokee Nation.

1048435

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } ss.
NORTHERN DISTRICT,

I do solemnly swear that I delivered a true copy

of the within notice to

on the 24 day of May, A. D. 1902
MISSION TO THE

FILED
MAY 26 1902
Subscribed and sworn to before me this

Notary Public.

I, the undersigned attorney for the within named
applicant, hereby accept service of the within notice

on this the 24 day of May, 1902
Muller & Smith
Attorney for Applicant.

I, the undersigned agent for the within named
applicant, hereby accept service of the within notice

on this the _____ day of _____, 1902

Agent for Applicant.

FILED
MAY 23 1902

NOTICE.

In the Matter of the application of Becky Webber.

for enrollment as Cherokee citizens:

To Becky Webber, or Mellette & Smith her attorneys,

Vinita, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes, Cherokee Enrollment Division, in the town of Muskogee, Indian Territory, on May, 27, A. D. 1902, at 8 o'clock a. m., or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands at Muskogee, Indian Territory, this May, 24, 1902.

No. F D 435.

L B Bell
W. W. Hastings
Jas. Davenport
Attorneys for the Cherokee Nation.

COPY.

Muskogee, Indian Territory, October 15, 1904

Commissioner of Indian Affairs,
Washington, D. C.

Dear sir:

Referring to your letter of October 11, 1904,
(Land 27911, 51417-1904) asking for a report in the case of
Becky Webber, Cherokee Freedman D-435, you are advised that
said case has been held pending a death affidavit as to
Frank Webber, one of the parties of this consolidated case,
and that said death affidavit has just been received by the
Commission. The record in this case, together with the
Commission's decision, will be forwarded to the Department
in the near future.

Respectfully,

(SIGNED) *I. B. Needles.*
Commissioner in Charge.

(C O P Y)

J. M.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, DECEMBER 20, 1904.

Refer in reply
to the following.

Land.

27911-1904.

51417-1904.

The Commission

To the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

Under dates of August 8, 1904, and October 11, 1904,
you were requested for a report in the case of Becky Webber,
Cherokee freedman D-435.

October 15, 1904, you advised this Office that the case
had been held pending a death affidavit as to Frank Webber, one
of the parties to the case; that the death affidavit had been
received by the Commission and that the record with your decision
would be forwarded in the near future.

In view of the fact that you have based your decision in
several cases now pending in this office upon the decision in the
Becky Webber case, you are requested to forward that record with
your decision thereon.

Very respectfully,

(Signed) A. C. Tonner

Acting Commissioner.

M.M.M.
W.

COPY.

Cherokee Freedmen
D-253, of M.

Muskogee, Indian Territory, January 8, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated January 8, 1906, rejecting the applications for the enrollment of Becky, Lewis Sr., Lewis Jr., Gern, Floyd, Beulah, and Margaret Webber and Joseph Sr., Etta, Alonzo, Harvey, Freddie, Maynard, Howard and Teague Manley, dismissing the application for the enrollment of Frank Webber, and granting the applications for the enrollment of Robert, Sam, Josh, Julia and Samuel Webber (sons of Susie and Frank Webber), Ella and Susie Whitmore, Kate, Ida, Frank, Sarah, Lela, Joseph Jr., Willie and Daisy Manley, Sidney West, Sabra Johnson, Sarah, Jim, Julia and Fannie Chapman, Evaline Jimison, Henry Gossard and Eliza Rogers, as Cherokee Freedmen.

You are hereby advised that you will be allowed fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the

-2-

principal applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

(SIGNED) *Tams Dixby.*

Chairman.

Encl. K-8.

COPY.

Cherokee Freedmen
D-435.

Muskogee, Indian Territory, January 26, 1905.

Becky Webber,

Ruby, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 5, 1905, rejecting, among others, the application for the enrollment of yourself as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. L-6.

Register.

(SIGNED).

Tame Bixby.
Chairman.

COPY.

Cherokee Freedmen
D-355 et al.

Muskogee, Indian Territory, January 24, 1908.

Edgar Smith,

Attorney for Etta Manley et al.,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 8, 1908, granting, among others, the application for the enrollment of Robert Webber, and rejecting, among others, the applications for the enrollment of Etta, Alonzo, Harvey, Freddie, Maynard, Howard, and Fessie Manley; Becky, Lewis Sr., Lewis Jr., Gora, Floyd, Beulah, and Margaret Webber, as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in these cases, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. 1-29.

Register.

SIGNED,

Tams Bixby.

Chairman.

COPY

Cherokee Freedman
D-383 et al.

Muskogee, Indian Territory, January 26, 1908.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Etta Manley et al., including the Commission's decision, dated January 8, 1908, dismissing the application for the enrollment of Frank Webber, granting the applications for the enrollment of Ella and Susie Whitmire; Kate, Ida, Frank, Sarah, Lela, Joseph Jr., Willie, and Daisy Manley; Robert, Sam, Josh, Julia, and Samuel Webber; Sidney West, Sabra McQueen, Sarah, Jim, Julia, and Fannie Chatman; Evaline Jimison, Henry Caesar, and Eliza Rogers, and rejecting the applications for the enrollment of Etta, Alense, Harvey, Freddie, Maynard, Howard, Essie, and Joseph Manley Sr.; Becky, Lewis Sr., Lewis Jr., Cora, Floyd, Beulah, and Margaret Webber, as Cherokee freedmen.

Respectfully,

SIGNED: *Tame Bixby.*
Chairman.

Encl. L-19.

Through the
Commissioner of Indian Affairs.

-COPY-

Y.P.

DEPARTMENT OF THE INTERIOR,

D.C. 22188

WASHINGTON.

FHE.

I.T.D. 3843,4575,8743-1905.

8745,8903,8905- "

3344,8907- "

10611,12908- "

May 31, 1906.

L.R.S.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 26, 1905, the Commission to the Five Civilized Tribes transmitted the record in the consolidated Cherokee freedman case of Etta Manley, et al., including its decision of January 5, 1905, denying the applications for the enrollment of Becky Webber, Lewis Webber, Sr., Lewis Webber, Jr., Cora Webber, Floyd Webber, Beulah Webber and Margaret Webber, Joseph Manley Sr., Etta Manley, Alenzo Manley, Harvey Manley, Freddie Manley, Maynard Manley, Howard Manley and Tessie Manley; granting the applications for the enrollment of Robert Webber, Sam Webber, Josh Webber, Ella Whitmire, Kate Manley, Ida Manley, Frank Manley, Sarah Manley, Lela Manley, Joseph Manley, Jr., Willie Manley, Daisy Manley, Sidney West, Sabra McQueen, Sarah Chatman, Evaline Jimison, Henry Caesar, Jim Chatman, Julia Chatman, Mennie Chatman, Susie Whitmire, Julia Webber and Samuel Webber, (son of Susie and Frank Webber), and Eliza Rogers; and dismissing the application for the enrollment of Frank Webber.

Reporting March 31, 1905, the Indian Office recommended that the decision of the Commission be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and the decision is hereby affirmed.

Motions for review filed September 7, 1905, in the cases of Etta Manley, et al., Joseph Manley, et al., Margaret Webber, Lewis Webber, Sr., and Lewis Webber, Jr., of which the Commissioner to the Five Civilized Tribes was advised, are denied. See section 3 of the act of April 26, 1906 (Public No. 129).

An argument filed by Preston B. Davis, of Vinita, Ind. T., with letter of May 13, 1905, in the case of Etta Manley, et al., and also a motion filed by A. S. McRea, of Muskogee, Ind. T., in the case of Sidney West, et al., have received due consideration.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 inclosure.

-COPY-

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND
8564-1905.
14810-1905.

March 31, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated January 26, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Maude Manley for her minor children, Etta, Alonzo, Harvey, Freddie, Maynard, Howard and Tessie Manley; by Walter Whitmire for his wife, Ella Whitmire; by Becky Webber for herself; by Lewis Webber Sr., for himself and minor children, Lewis Jr., Cora, Floyd and Beulah Webber; by Joseph Manley Sr., for himself and wife, Kate Manley, and minor children, Ida, Frank, Sarah, Lela, Joseph Jr., Willis and Daisy Manley; by Robert Webber for himself and wife, Margaret Webber; by Sam Webber for himself; by Josh Webber for himself; by Sidney West for herself; by Sabra McQueen for herself; by Sarah Chatman for herself and minor children, Evaline Jimison, Henry Caesar, Jim (James), Julia and Nannie Chatman; by Susie Webber, now Whitmire, for herself and husband, Frank Webber, and minor children, Julia and Samuel Webber, and by Eliza Rogers for herself.

January 5, 1905, the Commission decided adversely to

Becky Webber, Lewis Webber Sr., Lewis Webber Jr., Frank Webber, Cora Webber, Floyd Webber, Beulah Webber, Margaret Webber, Joseph Manley Sr., Etta Manley, Alonzo Manley, Harvey Manley, Freddie Manley, Maynard Manley, Howard Manley and Tessie Manley and favorably to all the other applicants.

The record shows that the applicants, Becky and Lewis Webber Sr., were slaves of a Cherokee citizen at the beginning of the war of the rebellion; that during the war they left the Cherokee Nation and did not return thereto on or before February 11, 1867. The minor applicants, Lewis Jr., Cora, Floyd and Beulah Webber are children of Lewis Webber Sr., and possess no rights to enrollment except as his descendants. The minors or their parents are not identified on the 1880 authenticated Cherokee roll.

The record further shows that the applicants, Robert and Margaret Webber were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and that Robert Webber returned but Margaret Webber did not return on or before February 11, 1867. Robert Webber has since continuously resided in the Cherokee Nation. The applicants, Ella Whitmire, Sam and Josh Webber and Kate Manley are children of Robert and Margaret Webber, were born since 1866 and have continuously resided in the Cherokee Nation since birth. The minor applicants, Ida, Frank, Sarah, Lela, Joseph Jr., Willie and Daisy Manley are the children of the said Kate Manley, were born since 1880 and have lived continuously in the Cherokee Nation

since birth.

It is further shown that the applicant, Joseph Manley Sr. was born since 1866 and possesses no rights to enrollment except as the descendant of Alonzo Manley (Cullen) and Eliza Manley, and that the minor applicants, Etta, Alonzo, Harvey, Freddie, Maynard, Howard and Tessie Manley were born since 1880 and possess no rights to enrollment except as the descendants of the said Alonzo Manley (Cullen); that Alonzo Manley (Cullen) was a free colored person residing in the Cherokee country and that Eliza Manley was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that during said war they left the Cherokee Nation and did not return on or before February 11, 1867. They are not identified on the 1880 authenticated Cherokee roll.

It is further shown that the applicant, Sidney West, was the slave of a Cherokee citizen at the beginning of the war of the rebellion; that she was taken out of the Cherokee Nation during the war but returned thereto on or before February 11, 1867, and has since continuously resided in the Indian Territory.

It is further shown that the applicants, Sarah Chatman and Susie Whitmire are children of the said Sidney West, were born since 1866 and have continuously resided in the Indian Territory since birth; that the minor applicants, Evaline Jimison, Henry Caesar, James, Julia and Nannie Chatman, and Julia and Samuel Webber are children of the said Sarah Chatman and Susie Whitmire, were born since 1880 and have continuously lived with their mothers since birth.

The record shows that the applicant, Frank Webber, died
June 13, 1901.

In view of the record the approval of the Commission's
decision is recommended.

Very respectfully,

G. F. Larrabee,

Acting Commissioner.

M.M.M.
W.

Muskogee, Indian Territory, June 7, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

The Department on May 31, 1906(I.T.D. 10611, 12908-1908), affirmed the decision of the Commission to the Five Civilized Tribes of January 26, 1905, in the Cherokee freedmen consolidated cases of Etta Manley, et al. Motions for review filed September 7, 1905, in the cases of Etta Manley et al., Joseph Manley, et al., Margaret Webber, Lewis Webber Sr., and Lewis Webber Jr., of which this office was advised January 15, 1906, were denied.

The records of this office show that a motion for review in the case of Becky Webber, one of the applicants in said consolidated case, was filed September 7, 1905, by the same attorneys filing motions in the above mentioned cases. There were 311 motions for review of different cases filed with the Department by the same attorneys on September 7, 1905, and in numerous cases the Department has been unable to identify those complained of, only the style of the cases being given. It is probable that the motion

Muskogee, Indian Territory, June 7, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

The Department on May 31, 1906 (I.T.D. 10611, 12908-1905), affirmed the decision of the Commission to the Five Civilized Tribes of January 26, 1905, in the Cherokee freedmen consolidated cases of Etta Manley, et al. Motions for review filed September 7, 1905, in the cases of Etta Manley et al., Joseph Manley, et al., Margaret Webber, Lewis Webber Sr., and Lewis Webber Jr., of which this office was advised January 15, 1906, were denied.

The records of this office show that a motion for review in the case of Becky Webber, one of the applicants in said consolidated case, was filed September 7, 1905, by the same attorneys filing motions in the above mentioned cases. There were 311 motions for review of different cases filed with the department by the same attorneys on September 7, 1905, and in numerous cases the Department has been unable to identify those complained of, only the style of the cases being given. It is probable that the motion

Secretary--2.

in the Webber case is one which the Department has been unable to identify, and as the records of this office show that the motion has been filed, and as the applicant was denied by the department May 31, 1906, it is respectfully recommended that said motion be denied.

Respectfully,

LMB

Commissioner

Secretary--2.

in the Webber case is one which the Department has been unable to identify, and as the records of this office show that the motion has been filed, and as the applicant was denied by the department May 31, 1906, it is respectfully recommended that said motion be denied.

Respectfully,

LMB

Commissioner

COPY.

Cherokee Freedmen
D 353 et al.

Muskogee, Indian Territory, June 8, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated January 8, 1906, rejecting the applications for the enrollment of Becky Webber, Lewis Webber, Sr., Lewis Webber, Jr., Cora Webber, Floyd Webber, Beulah Webber and Margaret Webber, Joseph Manley, Sr., Etta Manley, Alonzo Manley, Harvet Manley, Freddie Manley, Maynard Manley, Howard Manley and Tessie Manley; granting the applications for the enrollment of Robert Webber, Sam Webber, Josh Webber, Ella Whitmire, Kate Manley, Ida Manley, Frank Manley, Sarah Manley, Lela Manley, Joseph Manley, Jr., Willie Manley, Daisy Manley, Sidney West, Sabra McQueen, Sarah Chatman, Evaline Jimison, Henry Caesar, Jim Chatman, Julia Chatman, Hennie Chatman, Susie Whitmire, Julia Webber, and Samuel Webber, (son of Susie and Frank Webber), and Ellis Rogers; and dismissing the application for the enrollment of Frank Webber, was affirmed by the Secretary of the Interior May 11, 1906.

For your information there is enclosed herewith
copy of Departmental decision referred to.

Respectfully,

Encl. 4-96.

M.A.

RECEIVED

James Bixby

Commissioner.

Cherokee Freedmen
D 353 et al.

COPY

Washoe, Indian Territory, June 8, 1906.

Blue & Bulger,

Attorneys for Etta Manley et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated January 5, 1905, rejecting the applications for the enrollment of Beaky Webber, Lewis Webber, Sr., Lewis Webber, Jr., Cora Webber, Floyd Webber, Beulah Webber and Margaret Webber, Joseph Manley St., Etta Manley, Alense Manley, Harvey Manley, Freddie Manley, Maynard Manley, Howard Manley and Fessie Manley; granting the applications for the enrollment of Robert Webber, Sam Webber, Josh Webber, Ella Whitmire, Kate Manley, Ida Manley, Frank Manley, Sarah Manley, Lela Manley, Joseph Manley, Jr., Willie Manley, Daisy Manley, Sidney West, Sabra McQueen, Sarah Chatman, Evaline Jimison, Henry Caesar, Jim Chatman, Julia Chatman, Hattie Chatman, Susie Whitmire, Julia Webber and Samuel Webber, (son of Susie and Frank Webber), and Eliza Rogers; and dismissing the application for the enrollment of Frank Webber, was affirmed by the Secretary of the Interior, May 31, 1906.

For your further information there is enclosed
herewith a copy of the Departmental decision referred to.

Respectfully,

Encl. A-93.
H.A.

WCH:W
Tame Birby
Commissioner.

Cherokee Freedmen
D438.

~~COPY~~

Washoe, Indian Territory, June 8, 1906.

Becky Webber,

Ruby, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated January 5, 1905, rejecting, among others, the application for the enrollment of yourself as a Cherokee freedman, was affirmed by the Secretary of the Interior May 31, 1906.

Respectfully,

N.A.

~~100006~~

Jane Dixby.
Commissioner.

(COPY)

(COPY)

LAND
49072-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

June 19, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed letter of the 7th instant from Tams Bixby, Commissioner to the Five Civilized Tribes, who says that the Department on May 31, 1906 (I.T.D.10611, 12908-1905), affirmed the decision of the Commission to the Five Civilized Tribes of January 26, 1905, in the Cherokee freedmen consolidated cases of Etta Manley, et al; that motions for review were filed September 7, 1905, in the cases of Etta Manley, et al., Joseph Manley, et al., Margaret Webber, Lewis Webber, Sr., and Lewis Webber, Jr., which his office was advised on January 15, 1906, were denied. Mr. Bixby also says that the records of his office show that a motion for review in the case of Becky Webber, one of the applicants in the above mentioned consolidated case, was filed on September 7, 1905, by the same attorneys filing motions in the above named cases; that there were 311 motions for review of different cases; filed with the Department by the same attorneys, on September 7, 1905, and in numerous cases the De-

- 2 -

partment has been unable to identify those complained of, only the style of the cases being given, and the Commissioner says that it is probable that the motion in the Webber case is one which the Department has been unable to identify and as the records of his office show that the motion has been filed, and as the applicant was denied by the Department on May 31, 1906, he recommends that this motion be denied, in which recommendation I concur.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

ESH-Y.

D.C.41823-1906.

(COPY)

J.P.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

I.T.D.8389-1905.
11186-1906.

September 19, 1906.

L. R. E.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to your letter of June 7, 1906, received with letter of the Indian Office of June 9, 1906, in which you suggest the dismissal of a motion for review in the Cherokee freed-man case of "Becky" Webber, you are advised that the motion appears to have been filed in the case of "Rebecca" Webber, Eva Durant, and others, and was disposed of in departmental letter of June 25, 1906. The motion was styled a motion for review in the case of "Becky Rebecca" Webber et al.

No motion for review appears to have been filed September 7, 1905, in the case of Becky Webber, consolidated with the case of Etta Manley et al.

A copy of the Indian Office letter is inclosed.

Respectfully,

Jesse E. Wilson

Through the Commissioner
of Indian Affairs.

Assistant Secretary.

1 inclosure.

10 435

DEPARTMENT OF THE INTERIOR
BUREAU OF THE FIVE CIVILIZED TRIBES
JUN 4 1902

ACTING COMMISSIONER

THIS CERTIFIES

That on the *Samuel* day of
Miss and Lida Weber *Mar*
Ch

IN THE YEAR OF OUR LORD
1884

were
and *both of the of the*
Nation *were by me united in*

Marriage of the
Sam Weber Minister
according to the Laws of the *Nation*

witnesses *Sam Weber*
Clarrinda

VB.

J. D. 483-

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 29 1901

[Signature]

ACTING COMMISSIONER

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

May 29, 1901

Post Office

Ruby, D.C.

District

Coo

2. Name

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

Name of wife

Age 65

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

Names of Children:

3.

Year

Page

No.

Dist.

4.

Year

Page

No.

Dist.

5.

Year

Page

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12.

Year

Page

No.

Dist.

Application made by

M. I.

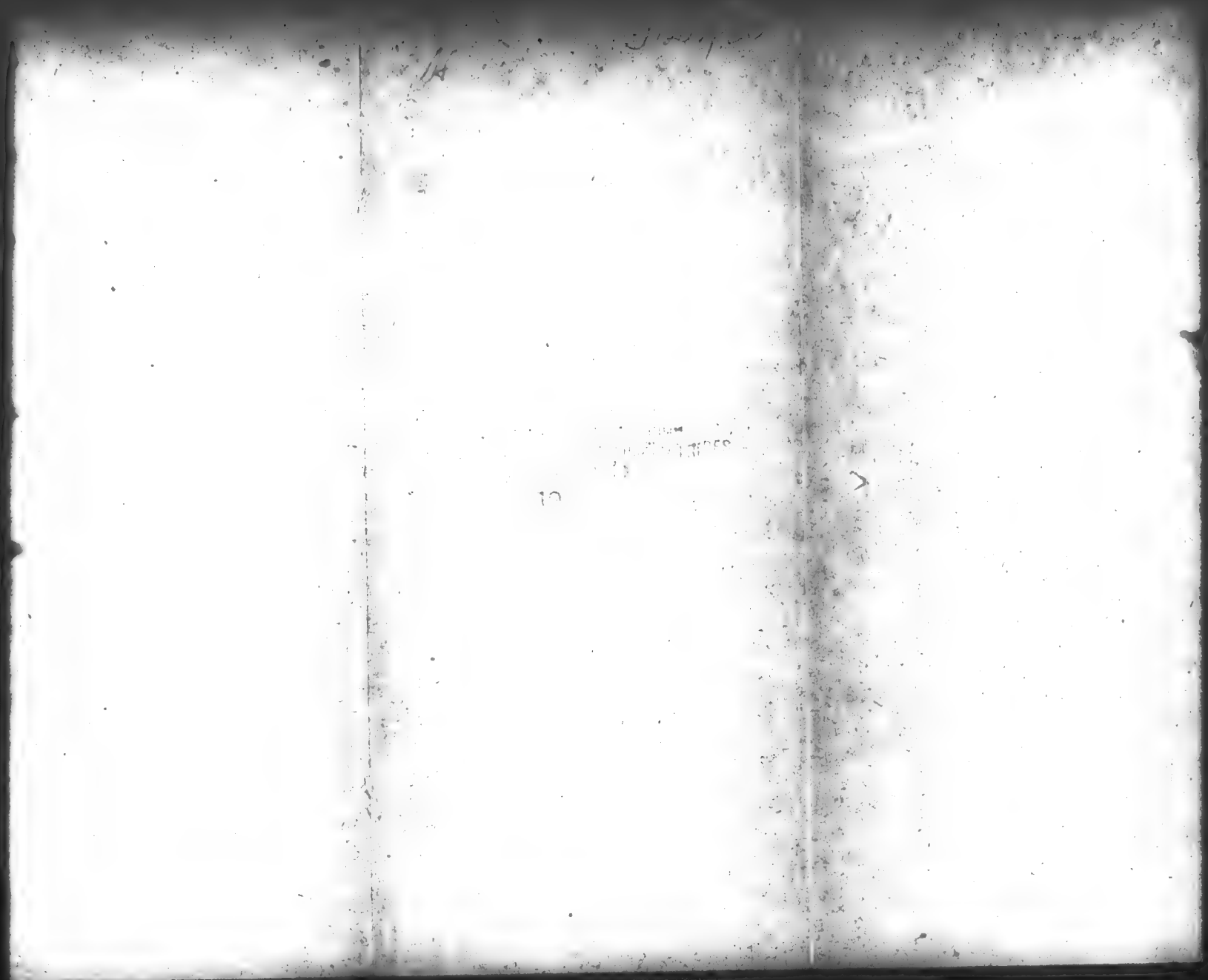
Stenographer

Chas von Meise

1 On K.C. roll as Beckie Webber

1 " Wallace roll, Page 150 * 3117 - Coo

Mullett and Smith, Atty for applicant.



NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Becky Webber,
Ruby, I.T.
Cherokee F-D-435
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher r r 0 10

Trans. from Cher Fr D #43

Cher Fr R 890

A. J. 443

REPORT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

JUN 1 1901

ACTING CHIEF

Department of the Interior.
Commission to the Five Civilized Tribes.
Chelsea, I. T., May 31, 1901.

In the matter of the application of Georgia Starr for the enrollment of herself, her husband, Jack Starr, and her four children as Cherokee Freedmen; she being sworn and examined by Commissioner G. N. Breckinridge, testified as follows:

- Q Give me your full name. A Georgia Starr.
Q How old are you? A Well, I don't know exactly how old I am.
Q Well about how old? A I must be forty some odd; I don't know exactly.
Q What is your postoffice? A Centralia.
Q In what district do you live? A Geowesscoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to apply for anybody besides yourself? A Well myself.
Q Have you got some children? A Yes sir. (Hands paper to Commissioner.)
Q You have four, have you? A Yes sir.
Q Have you a husband? A Yes sir.
Q Is he a Cherokee Freedman? A Yes sir.
Q You want to apply for yourself, your husband and four children, is that right? A Well, yes, I guess that is all right.
Q That is all you have, is it? A Yes sir.
Q How long have you lived in the Cherokee Nation? A All my life, as far as I can remember.
Q Give me the name of your father. A Ben Grinnett.
Q Is he alive? A Yes sir, he is alive.
Q Give me the name of your mother. A Clarinda Grinnett.
Q Is she alive? A No sir, she is dead.
Q How long has she been dead? A I declare I don't know. I reckon about 18 years or more.
Q Give me the name of your husband? A Jack Starr.
Q How old is he? A I don't know; he must be about sixty something; I don't exactly know.
Q Where is he now? A He is out here to the camps.
Q How long has he lived in the Cherokee Nation? A All his life, I guess.
Q Do you know the name of his father? A No sir, I don't.
Q Do you know the name of his mother? A No sir, I have heard him call her name several times, but I don't remember his name. He is around here.
Q When were you and he married? A Well, I declare I don't know, Mister, he can tell you more about it than I could.
Q Is your oldest child Walter? A Yes sir.
Q How long before Walter's birth were you married? A About two and a half years.
Q Walter is 17, is he? A Yes sir.
Q You have been married nearly twenty years? A Yes, I guess it has.
Q Were you ever married before you married Jack Starr? A No sir.
Q Was he ever married before he married you? A Yes sir.
Q How many times was he married? A Only once.
Q Who was his first wife? A Charlotte Hayes.
Q Was that wife dead when he married you? A Yes sir, she was dead.
Q Was she a Cherokee Freedman? A Yes, Cherokee Freedman.
Q She died before you and Jack Starr married? A Yes sir.
Q Give me the names of your four children. The oldest one is named Walter Starr? A Yes sir.
Q He is 17 years old, is he? A Yes sir.
Q The next one, Herbert? A Herbert Starr.
Q He is 15, is he? A 15.
Q The next one is? A Numpy.
Q Numpy is 9? A Yes, 9 years old.
Q The next one? A Mark.
Q He is four years old? A Yes, four years old.

G. S. -2.

Q Are they all living now? A Yes sir.

Q Did you have a brother named George? A No sir, I am the only one; they called me George and Georgia.

The 1880 authenticated roll of the Freedman of the Cherokee Nation examined and the name of the applicant is found on page 108, No. 1316, George Grinnett, Cooweescoowee District.

The applicant's husband is not identified on the 1880 authenticated roll.

The 1896 census roll of the Freedman of the Cherokee Nation examined and the names of the applicants not found thereon.

Q Did you draw Cherokee strip money? A Yes sir.

The Kerns Clifton Roll examined and the names of the applicants are found thereon as follows:

Page 10, No. 347, Georgie Starr, Cooweescoowee District.

Page 140, No. 3489, Jack Starr, Cooweescoowee District.

Page 10, No. 348, Walter Starr, Cooweescoowee District.

Page 10, No. 349, Herb Starr, Cooweescoowee District.

Page 10, No. 250, Erna Starr, Cooweescoowee District.

Jack Starr, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name. A Jack Starr.

Q How old are you? A To the best of my knowledge, I am about 66 this year.

Q What is your postoffice? A Centralia.

Q Are you the husband of the applicant here, Georgia Starr? A Yes sir.

Q About how long ago was it when you and she were married? A Well, its been about 19 years I guess now.

Q Were you ever married before? A Yes sir.

Q What was the name of your first wife? A Charlotte Whitmte. She was a Mayes; her father was Mayes.

Q Was she dead when you married this wife? A Yes sir, she was dead two years and six months.

Q I don't find your name on the roll of 1880 or on the roll of 1896, can you explain why you are not on the roll of 1880? A Just because the Cherokees wouldn't put me on; they have been trying to lose us all they could.

Q What reason did they give for not putting you on? A I don't know; they didn't claim us.

Q How long do you claim to have lived in the Cherokee Nation? A I have lived here ever since I can recollect.

Q Since before the war? A Yes sir.

Q Were you a slave in the Cherokee Nation when the war broke out? A Yes sir.

Q To whom did you belong? A Old Dr. Thornton, when the war broke out.

Q What was his full name? A John.

Q Dr. John Thornton? A Yes sir.

Q Where did he live? A In Gaingsake District, in the east part.

Q Was he a recognized citizen of the Cherokee Nation? A Yes sir, I guess he was; he was an Indian.

Q Where did he go during the war - where did they take you? A They didn't take me anywhere; I took myself in the first Indian Regiment.

Q Where did you enlist? A I wasn't a soldier; I was a teamster and working for officers.

Q Where did you join the regiment? A I went into it when it started north.

Q Where was it? A By Lewis Ross' place somewhere.

Q Where did you go with them? A I went north with them.

Q Up in Kansas? A They went there to Kansas; they went up to Drywood, twelve miles this side of Fort Scott and stayed a while and then they come back and went to Arkansas and the edge of

Missouri.

Q Where were you when the war closed? A At Fort Gibson.

Q Were you there at the time you quit working with the regiment?

A Yes sir, that is where they disbanded and turned them loose; the Cherokees told them to go.

Q What year was that, do you know? A I think I am not very well posted in dates; I think it was in '65.

Q What time of the year did they disband then? A Well, it was along about the middle of the summer or spring; I disremember now.

Q Well, where did you go after you quit that regiment? A I went up into Kansas where my wife was.

Q She had been carried up there? A Yes sir, by the government teams.

Q What did you do up there? A I didn't stay there very long; I worked around there at Fort Scott for a while until I got myself a plug of a team and come back to the nation here.

Q Cherokee Nation? A Yes sir.

Q Did you bring your wife with you? A Yes sir.

Q Was that your wife Charlotte? A Yes sir.

Q Well, when was that you brought your wife back? A That was along about the first of September or last of August, or somewhere along there in the year of '66, after I went up there. I went up in October in '65, and come back in '66.

Q Where did you locate when you came back with your wife? A Up on Big Creek in Cooweescoowee District.

Q How long did you live there? A From that date until this.

Q Always lived at the same place? A Yes sir.

By W. W. Hastings: Did you come back in a wagon? A Yes sir.

Q Your first wife with you? A Yes sir.

Q How many children did you have? A I had three at that time, I think. No, two I believe.

Q What were their names? A One was named Charlie and one was named Aaron and Peggie.

Q Were these children all born before the war? A No sir, one was born in the time of the war, and one was born before the war. No, I am mistaken two was born before the war and one in the time of the war.

Q Which one was born in the time of the war? A Peggie.

Q Where was she born? A She was born up there while I was down here.

Q Who come back to the country with you? A Well, there was old man Mayes' folks, Berry Ward.

Q What Mayes? A Dave Mayes.

Q Dave Mayes come with you, did he? A Yes sir.

Q Who else come with you? A Sam Whitmire and Jesse Whitmire.

Q Anybody else? A Yes sir, there was old man Berry Ward; he is dead now. There was several come along; it has been a long time to recollect these things. I told you once who come along with us.

Q I am seeing if you remember the same way this time? A I don't keep no dates, and I can't recollect them all the time; I am trying to tell you the same I told you before.

Q You said before Dave Mayes was living in the Cherokee Nation when you came? A No sir, I don't think I did.

Q You swear now that he come with you? A Yes sir, he come with us.

Q What part of the Cherokee Nation did you come to? A Come on the north part of this district up in on Big Creek.

Q How far from the Kansas line did you settle? A I don't know how far; it is some ten or fifteen miles.

Q How far did you come from the place where you are now? A Not more than a mile.

Q You came to the same neighborhood? A Yes sir, same place. I live right on the same place that I first improved.

Q How far did Will Martin live from you at that time? A Who is that?

Q He is a Cherokee citizen? A He was in Kansas somewhere; he wasn't there when I come there.

G. S. No. 4.

Q You are positive about that? A Yes sir.

Q Where was Jim Martin? A He was with Dilways somewhere, I don't know.

Q A few Osages were there? A Yes sir, there were some Osages there; they stole horses from us.

Q They were the only ones beginning there at that time? A That is all I know at that time.

Q Were there a good many houses on Big Creek when you come? A Good many foundations and log houses; they were putting up some there; not very many.

Q Were Aaron Wright and Lewis Wright there? A Yes sir.

Q Casesar Smith? A He come with me, Casesar Smith come with me.

Q How about Mike Sanders? A He was there when I come there.

Q Did he have a place? A Yes sir.

Q A house? A Yes sir, some kind of a log hut.

Q How far did he live from you? A About one mile I guess from where I am living now. He lived about one mile.

Q How long did you stay at Fort Gibson after you were mustered out of the service? A I wasn't a soldier.

Q After the others were mustered out? A I stayed around there - I left there about the first of October. I know there was a little frost. I went to Kansas with Tim Walker.

Q Cherokee Tim Walker? A Yes sir.

Q Dick Walker's father? A I don't know; I guess it was his son.

Q You went with him? A Yes sir, I rid up in his wagon myself and one of his boys was along; I don't know his name.

Q What did you do up in Kansas? A I knockwood around there, enough to get me a plug old team and get back. I couldn't tell you what I worked; one thing and then another.

Q You worked long enough to get a team and wagon? A Yes sir, I got an old wagon that lasted until I got down here.

Q You supported your family in the meantime also? A Yes sir.

Q And you think you came here in August? A First of September or last of August.

Q You know it wasn't later than September? A Yes sir, I know it wasn't later than that.

Q Was Sam Webber already living down there then? A Yes sir, he was living there.

Q Harry Still was there? A Yes sir.

Q Lewis Wright? A Yes sir.

Q These people had houses there when you come? A Harry Still didn't; they were down on the foot of Lightning Creek.

Q You are certain you never saw Will Martin? A I have seen him, but I never saw him when I come that year that I know of.

Q There were no Cherokees there then? A Dick Carter was down somewhere on the Verdigris, and a man by the name of Coker was there.

Q Cal Coker? A John Coker.

Q You built yourself a house right away after you come? A Yes sir, as soon as I could; I lived in a camp a while.

Q From whom did you get provisions to live on the first year? A I fetched some with me, all I could; and where I could get it: once in a while a wagon would come in from Missouri, from Chatopa, hauling flour and a piece of meat to sell, and I would get a hold of a piece once in a while.

Q From what place in Kansas did you say you come? A Up there by Fort Scott.

Q Did you come by way of Chatopa? A I come a little west of Chatopa. I don't know whether there was any Chatopa there then; it was just starting; I didn't come on any Railroad then I am certain of that; there wasn't any Railroad then.

Q You are certain there wasn't any Railroad? A Yes sir.

Q You are not certain whether there was any Chatopa, are you? A I am not certain; there was a little place at Gwego then.

Q Wasn't Chatopa your nearest trading point when you came to the Cherokee Nation? A Yes sir, that was the nearest point, but I didn't have any provisions to get.

Q Didn't you say you were getting provisions? A There was a mighty

G. S. No. 8.

little Chatopa there.

Q When did you go to Coffeyville first? A I don't know that there was a Coffeyville then there. There was a little town Centralia before I knew of Coffeyville.

Q That was the town that was incorporated there the last few years in where you are living? A No not Centralia; they moved down and then made old Parker. There was two or three stores there.

Commissioner: Did you get out a Cherokee license when you married this wife, or did you just have a preacher marry you? A Just a preacher married us.

The applicant applies for the enrollment of herself, her husband and four children. The applicant is identified on the roll of 1880 and the Kerna Clifton Roll as a Cherokee Freedman. She has lived in the Cherokee Nation all her life. Her change of name arising from marriage is established in a satisfactory manner, and she will now be listed for enrollment as a Cherokee Freedman. Of her four children named in the testimony, the three older are identified on the Kerna Clifton Roll. Her lawful marriage to her husband, the father of these four children, is established in a satisfactory manner; they are all now living. The first three will now be listed for enrollment as Cherokee Freedman; and when she supplies the Commission with a certificate of birth of the youngest child, Mark Starr, this child also will be listed for enrollment as a Cherokee Freedman. As for the applicant's husband, Jack Starr, he states that he was a slave in the Cherokee Nation at the beginning of the Civil War, and that he has lived in the Cherokee Nation all his life, except a brief absence during the period of the war with the first Indian Regiment, and that he left the service when that regiment was mustered out in 1865, and that he was then with the regiment at Fort Gibson, Indian Territory. He claims to have then gone to the State of Kansas in very short time, perhaps a few weeks after he left the service, for his wife and children; his wife at that time being his first wife who he states died before he married his present wife, and that he brought them back in the succeeding August or September of 1866, and that he has lived in the Cherokee Nation ever since. He did not marry his wife under a Cherokee license.

Q You married your first wife in slavery time, didn't you? A Yes sir.

Judgment continued.

And the only claim he makes to enrollment is of his own right. He is identified on the Kerna Clifton Roll, but not upon the roll of 1880, or upon that of 1896. For the further consideration of his testimony, he will now be listed for enrollment as a Cherokee Freedman on a doubtful card, and the final decision of the Commission will be made known to him at his postoffice address.

Supplemental.

Examined by W. W. Hastings of Jack Starr, continued:

Q These men who had houses, whose names you have mentioned in your testimony as being down there when you came to Big Creek, they had their families, did they? A Yes sir.

Q Had Sam Webber put in a crop of corn that year? A Well, he might have had a patch of corn. They had a roasting-ear patch.

Q When you came? A Yes sir.

Q All of them had small patches? A Yes, they didn't raise anything to amount to anything. I saw a patch around his house there.

S. S. No. 6.

The undersigned, being duly sworn, states that as a member of the Commission to the Five Civilized Tribes, he has examined the testimony and proceedings in the above case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 1st day of June, 1901.



Commissioner

B.

22 448

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 31 1901



ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

May 31, 1901

Post Office

Wentzella D. T.

District

Co.

1. Name

Jack Starr

Age

66

Owner's name

Deputy Thornton

Citizenship

Cherokee

Year

1900

Page

140

No.

3489

District

Co.

Parents:

Father

Citizenship

Mother

Citizenship

2. Name of wife

Owner's name

Wentzella D. T.

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

Names of Children:

3.

Year

Page

No.

Dist.

4.

Year

Page

No.

Dist.

5.

Year

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10.

Year

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11.

Year

Page

No.

Dist.

12.

Year

Page

No.

Dist.

Application made by

Georgia Starr (wife)

Stenographer

Cherokee

X Ref.

70413

THE INTERIOR.
VE CIVILIZED TRADE
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NOT

JUL 16 1961

[Faint, illegible markings]

Department of the Interior.
Commission to the Five Civilized Tribes.
Cherokee, I. T., June 6, 1901.

Supplemental testimony in the case of Jack Starr for enrollment as a Cherokee Freedman.

Sam Webber, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows: Mellette & Smith, Applicant's Attorneys, and J. S. Davenport, Cherokee Attorney, present.

Q Give me your name. A Sam Webber.

Q How old are you? A About 58 somewhere about there.

Q What is your postoffice? A Nowata.

Q How long have you lived in the Cherokee Nation? A I was born here and went out and come back in '66 and been here ever since.

Mr. Mellette: Do you know the applicant, Jack Starr? A Yes sir.

Q Do you know when he returned to the Cherokee Nation after the war? A Yes sir.

Q When? A He come in the fall of '66.

Q Who come first in the fall you or the applicant? A We come a little ahead; he come a few days after we moved, he settled thereby us.

Q Where has he lived since that time? A Right there where he settled.

Q Has he a farm there now? A Yes sir.

J. S. Davenport: How did it happen that he didn't get on the 1880 roll? A I don't know.

Q You had a patch and was cultivating it when he come, didn't you? A No sir.

Q Didn't you have a roasting-ear patch when Jack Starr got down there? A No sir, didn't have no roasting-ear patch.

Q He was mistaken then if he testified that you had a roasting-ear patch when he come? A He must be. I never had one until the next year.

Q When did you come back down there, Sam? A In July, and went back and moved.

Q What year in July? A In '66.

Q You came down before the treaty was made? A Yes sir.

Q And come back in what part of the year? A When we come to build we left Kansas the latter part of July and stayed until August.

Q And stayed there until when? A We went back as soon as we could put up some shanties.

Q And come back in the fall? A Yes sir.

Q Did you clear out any patch then? A No sir.

Q Who was with you when you first come down there? A Russell Vann, my father, Mike Sanders, Reuben Sanders.

Q When this applicant came who came with him? A Uncle Dave Mayes, Santa Ann Nivens and Caesar Smith and boys.

Q He came then some time after you came? A Yes sir, not a great while behind us.

Q Was Bill Martin living there on Big Creek when he came? A No sir, he wasn't there.

Q Where was he living when Bill Martin came on Big Creek? A Right there where he made himself a place.

Q Has he been a recognized citizen up in that country, or a disputed one? A Well I couldn't tell you all about that.

Q Well you have been around that country and preaching; you know who are citizens and who are disputed? A I have seen them let him vote and sometimes they didn't let him vote.

Q Has he been disputed? A They call him a disputed citizen.

Q There are a great many disputed citizens up there who have farms, have they? A Yes sir, they have farms there, some that are disputed.

Mr. Mellette: Are you on the roll of 1880 as a Freedman? A Yes sir.

Lewis Whitmire, being sworn and examined by Commissioner G. R. Breckinridge, testified as follows:

Q Give me your name. A Lewis Whitmire.

Q How old are you? A 42 years old as near as I know.

Q What is your postoffice? A Hayden.

Q How long have you lived in the Cherokee Nation? A I never was out of the nation.

Q No during the war? A I have been living there all my life, grewed up there.

Q Were you out during the war? A I was part of the time in the nation with the Cherokee army, and the other part in Missouri and Kansas driving teams.

Mr. Mellette: Are you on the roll of 1880? A Yes sir.

Q As a Freedman citizen of the Cherokee Nation? A Yes sir.

Q Do you know the applicant, Jack Starr? A Yes sir, I know him.

Q Do you know when he returned to the Cherokee Nation after the war? A Why I think I do.

Q When did you see him in the Cherokee Nation after the war first?

A The first place I seen him was up on Big Creek.

Q What time? A Why it was along in the fall of '66. I don't know exactly what time.

Q Where was that you saw him? A Up here on Big Creek in the neighborhood where he lives now.

Q Where has he lived since that time? A He has been living there all the time to my best knowledge. I have noticed him there all the time; I never knowed him to be out since that time.

J. S. Davenport: What makes you remember it was in the fall of '66 you saw him up there? A Why it was called that year when he come there, that is the only reason I remember.

Q Do you know how long he had been there when you saw him? A I saw him when he moved in.

Q You don't know where he was living before that? A No sir, I don't.

Q You don't know where he has been any other year, where he has been living specially since that year? A He never has been away since that.

Q How does it happen that he is not on the roll of 1880 if he came there in '66? A I can't tell you sir.

Q He has been a disputed citizen all the time? A That's what he has I guess.

Q You understood that all along, haven't you? A I understand that.

Q That he didn't return in time under the treaty of '66? A Yes sir.

Q And still you think he came back there in '66? A Well I am real positive he did.

Q Did he come when Sam Webber come? A He come along a little time after Sam Webber did.

Q Well when did Sam come, what year? A Sam come in '66.

Q Sam has a roasting-ear patch growing when this man come? A Not that I know of. I lived ten miles from there.

Q Well if this man testified that Sam had that patch is it true or untrue? A I can't tell you; I wasn't there maybe at the time when a corn patch was made and growing.

Q Did Sam Webber come early enough in '66 to have a corn patch? A Sam Webber come in the summer of '66.

Q He couldn't so very conveniently have had a corn patch growing by the time this fellow got there? A I couldn't tell you about that, but I saw him.

Q You wouldn't swear positively as to what year it was, would you, Lewis? A Yes sir.

Q Would you swear positively it was '66? A That was what everybody called it at that time.

Q What year was the Wallace Roll made? A Well now sir, you are getting away from me. I don't date nothing, and I don't recollect.

3- J. S.

Q You know it was made at a certain time and you were interested in that at that time as well as you were interested in the '66 treaty? A I was put on the '80 roll, but I don't remember when that was.

Q What year was the Kern Clifton Roll made? A I think it was in '86.

Q But you think it is positive that it was forty years ago when this man come here? A Yes sir, he come here in '66 when they called it over to me.

Q Did everybody call it to you? A Yes, they said it was '66.

Q Lewis, you don't belong to Nelson Murrell's Protective Association? A No sir, I don't.

Mr. Mellette: Now he asked you why this applicant didn't happen to be put on the roll of 1880, and he asked you if you don't know if it wasn't because he didn't get back here in '66. Do you know if anybody will say that he didn't get back here in '66? A I don't, if they know as much about it as I do.

Q Do you know of anybody that would swear, or did you hear of anybody that would swear he didn't get back here in '66? A No sir.

J. S. Davenport: You were living there by him in '80, were you? A Yes sir.

Q And Sam Webber was living there? A Sam Webber lived close neighbors, and I lived ten miles.

Q Both of you knew about the facts as much as you do now? A Of course we do.

Q Neither of you swore for him before the Kerns Clifton Commission? A I didn't.

Commissioner: Did you ever give evidence for this man, Jack Starr, at any time when he was trying to get on the roll? A No sir, I don't think I did.

Q How does it happen that there were so many living there who knew he had come back and yet let him stay under the cloud of a doubtful citizen? A We couldn't put a man on the roll. We had nothing to do with the books.

Q Couldn't you have given evidence? A We might have if they had called on us; they never called on us.

Q You were never called on to give evidence? A No, I never was called on. I could have give in the same as I am giving in now.

Mr. Mellette: Isn't it a fact that when the '80 roll was made, the Cherokee citizens passed around through this country and in many instances failed to call on people for evidence as to whether they came back in time or not? A Well I don't know whether they did that or not. I know they failed to put them on because they had them already enrolled as doubtful citizens in that year when they made the '80 roll. They were already enrolled.

Q Who took the '80 census for the Freedmen in behalf of the Cherokee Nation up in your country? A Up in my neighborhood. I know the man well.

Q Who was that? A Dick Duck and John Hicks.

Q Dick Duck is a Cherokee who talks pretty fair English? A Yes sir.

Q He is almost a full blood? A Yes sir.

Q He lives down to Ocoosa? A Yes, he is the man that took my family down; he and John Hicks.

Q And Dick Duck is the man that come to your house? A Yes sir.

Q Was John Hicks up in that country at all? A John Hicks was with him when he come to my house; they ate dinner with me.

Q Do you know whether Dick Duck is an educated man or not - can he write? A I don't know whether he can. I am not well acquainted with him about that.

J. S. Davenport: You know as a matter of fact that when any parties were missed in 1880, that there was created a revising committee to perfect that roll and put them on in the year 1880? A I don't know that Mr. Davenport; there might have been.

Q Do you know Moses Whitmire? A Yes sir.

Q Do you know that Moses Whitmire and his family were added by the revising committee and that the 1880 roll shows it if you had examined it? A I never examined it. I can't read. I would have to have somebody examine it for me, and I never had anybody examine

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it for me.

J. S. Davenport: I want to show that Moses Whitmire and others had been added by the revising committee in 1880, which relates to Moses or Martin Whitmire.

Mr. Mellette: I think that would be a very peculiar proceeding. There is no law for a revising committee, and it is immaterial in this case.

Commissioner: There may have been a revising committee and it is recalled in a general way at this time that in a number of cases names were added to the roll of 1880 by the revising committee. This committee may have had power before the final adoption of the roll to both add and strike off names, as the name of the committee would indicate, but the existence of such power on the part of the committee would not of itself be of material consideration as to the rights of a claimant under the treaty of 1866, but whose name does not appear upon the roll of 1880.

Commissioner: Now Lewis Whitmire, when these people who were taking the census of 1880 came around to put you on the roll, what did they ask you, what did they do to find out whether you were entitled to go on that roll? A Why they just asked me if I was recognized by the Cherokees, and I told them, yes, and I supposed they knew I was recognized by the roll, but they didn't put one of my family on; they left my eldest child off, my step-child; I raised right in the house with me. I married her mother when she was a little over two years old; she wasn't at home; she was working out and they never did put her on the roll.

Q Now was that child's mother a Cherokee Freedman? A Yes sir.

Q Had she been a slave? A Yes sir.

Q What reason did they give for leaving that child off? A Why she wasn't at home, and I suppose they thought she was grown; she was fourteen going on 16, and they thought she was grown. Dick Duck told me afterwards he thought she was a grown woman. When they went to my brother's she was working, and they didn't put her on, and I suppose if she had been at home they would have put her on the roll, but she wasn't there, and I made a statement to him when they went away, and they said they would put her name on when they got to my brother's, and she went to another neighbor's and they never did put her on.

Q Did they ask you at that time what year you came back from Kansas? A They asked me if I was recognized, and they opened a book and that was all.

Q Now this man, Jack Starr, had he been treated as a doubtful man before that time? A Yes sir, I suppose he had.

Q Had you heard before that that he had been called doubtful? A I heard that before the election. I heard he was a doubtful citizen one year before that at an election time, and I can't tell how far before that.

Q Had they ever bothered you before that about voting? A No sir, they never did after they recognized me in the Supreme Court, but they did one or two years before I went to the Court and proved my right.

Q That was before the roll of 1880, was it? A Yes sir.

Q So you had gone to the court and proved your rights? A Yes sir.

Q Did you tell the enrollment officers that? A No sir, they knowed it.

Q Well now, do you know whether Jack Starr ever went there to prove his rights? A No sir I don't.

J. S. Davenport: What was the name of that step-daughter of yours? A Lissie.

Commissioner of Applicant, Jack Starr: Did you ever apply to the Cherokee Court up at Tahlequah to have your rights as a Freedman recognized? A I went once when Bob Daniels had a court after they took about a paper, and it didn't say anything about colored or Indian; and it said "Come and prove your right."

Q You went up there? A I went up there and here's back.

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Q What did they do when you went up? A They laughed at us and said for us to go back and go to work.

Q Do you remember when Lewis Whitmire went up there to have his rights proved? A Yes sir, there was another court sitting. I believe they called it the Chamber's Court.

Q Did he go after you or before you did? A He went after I did; he went to the Chamber's Court; they admitted him.

Q Well you didn't go to the Chamber's Court? A No sir.

Q So that is all you had to do with courts about the business?

A The second chief, Bill Penn Adair, I believe, when I went down here, they said to go to the government they freed you, go to them.

Q Well you didn't stop at that, you went to the Court and found out they weren't dealing with colored people? A Yes, that was the same time; he was in the same house there at Tahlequah, and we come back home.

Mr. Mellette: Well Jack, how long had you been free at that time? A Well it must have been + I don't know exactly; it must have been four or five years or three or four.

Q Did you know anything about business much? A No sir.

Q Had you been raised to understand anything about courts? A No sir.

Q Are you able to read and write? A No sir.

J. S. Davenport: Well Jack, you came back with Sam Webber to the Cherokee Nation after the war? A No sir, I came a little after he did.

Q Do you know whether or not Sam Webber applied to the Bob Daniels' Court to establish his rights as a Cherokee Freedman? A Well there was thirty or forty of us. I believe the old man was along.

Q Don't you know that Sam Webber and his family and Johnson Webber and Charles Campbell applied to the Bob Daniels' Court at the time you went down there, and they were all admitted and you didn't make no application or was rejected if you did apply? A No sir, they applied, but I don't think — I think they did like I did.

Q Don't you know they applied and were admitted by the Bob Daniels' Court? A No, sir.

Commissioner: Did this man go the same time you did? A There was some of them went, I aint certain whether Sam Webber went. I think old man Webber was along. I forgot about Sam, and I don't know about this man or not.

J. S. Davenport: Was Johnson Webber along? A I don't remember.

Q Or Harry Still, was he along? A I don't know whether he was along. I know Mike Sanders was along, Caesar Smith, a whole lot of them was along.

Q Do you remember what year it was that you went down there to the Court? A No sir, I don't.

Q Was it a few years after you came back to the territory? A Yes sir, it wasn't more than one year or two years.

Q A short while after you came back? A It might have been three.

Q Have you no recollection at all; you live in the Webber neighborhood — did you hear of them talking about their going down there and proving their right? A No sir, I know they went down there a time or two. Old man Webber, they owned him down there somewhere, and he went down among the full bloods and around in there.

Lewis Whitmire recalled and examined by Commissioner:

Q Did Jack Starr go to Tahlequah the same time you went there to get your rights proved up? A No sir.

Commissioner of Applicants: Did you go with old man Sam Webber? A Yes sir.

J. S. Davenport: Didn't old man Sam apply and his family and Johnson Webber? A Well I couldn't tell.

Commissioner: Did this Sam Webber who testified in your case, did he apply the same time you did down at Tahlequah? A Well I aint certain whether he was in that crowd, but he applied to the Chambers' Court, I think.

Q Is this the son of old Sam? A Yes sir.

Mr. Mellette of Applicant: Did they tell you to bring your witnesses and prove that you had come in in time to be a citizen? A No sir, they didn't. They told us at that Court to go home and go to work; they were not calling for niggers; ~~we~~ we didn't want you; that is what they said.

Q You didn't know anything to do but to go home? A I didn't know anything else to do but to go home. I didn't have much of a home to go too.

J. S. Davenport: Well they didn't tell old man Sam Webber to do that; they didn't tell him to go home? A If he was in the crowd they told him.

Q Was he in the crowd? A One of the Sam Webbers was along, I think; Mike Sanders and Caesar Smith; there were thirty or forty of us, and they told us all to go back.

Moses Whitmire, being sworn and examined by Commissioner

D. R. Breckinridge, testified as follows:

Q Give me your full name. A Moses Whitmire.

Q How old are you? A Why I am seventy some odd years old -- 75 I expect.

Q What is your postoffice? A Hayden.

Q How long have you lived in the Cherokee Nation? A Well, I lived in it all my life.

Q Are you on the roll of 1880? A Yes sir.

Mr. Mellette: Mese, where were you when the 1880 roll was made?

A I was on Lightning Creek.

Q Who took the census for the Cherokees up there? A John Hicks and Dick Duck.

Q Did they put all of your family on the 1880 roll? A No sir.

Q How many did they leave off? A Two.

Q Which ones? A Ed Wright and Melissa Ratliff.

Q Were they members of your family? A There was my wife's niece, Melissa was, and Ed was my wife's son. I brought them with me.

Q Where from? A From Kansas.

Q You brought them when you came? A Yes sir.

Q Had their parents been slaves? A Yes sir.

Q And you brought them with you when you came from Kansas? A Yes sir.

Q You are on the roll of 1880? A Yes sir.

Q Did you give them their names? A Yes sir, I gave their names in.

Q Did they take them? A Yes sir, they took them alright.

Q But they were left off? A Yes sir.

Q Where are these people now? A They are here.

Q On the ground? A Yes sir.

J. S. Davenport: Mese, there has never been any controversy about your return in time under the treaty, has there? A I don't know that there has.

Q Did you ever go to any of the Courtstet prove that you returned in time? A Yes sir.

Q You proved up, did you? A Yessir.

Q When John Hicks and Dick Duck came to your house, did they refuse to list any of your family? A Yes, those I told you about.

Q You say they took the names? A They took the names, but they are not on any roll.

Q Didn't you say they took their names? A They took their names, but they never put their names on any roll.

Q They listed them and never questioned anybody about their rights to be enrolled? A Not at my house.

Q They didn't question you that these two children were a part of your family, did they? A No sir, didn't say anything about it.

Q In fact, Mese, didn't the Freedmen like yourself and Lewis Whitmire furnish them with references to those that had been decided against by the Court and held not to be Freedmen who had not returned in time? A No sir, we went to all the Courts.

Q But you didn't apply to any but the Bob Daniels' Court? A I applied to the Chambers' Court; that is where we got our rights. The Bob Daniels' Court wouldn't have anything to do with us.

Q You had no trouble of proving up, now? A No sir, I didn't have no trouble.

Mr. Mallett: You went to the Bob Daniels' Court and he told you he wouldn't have anything to do with you? A He told us to go back home; they said they weren't working with us; they were working with Cherokee Indians.

Q Then when you went back to the Chambers' Court who did you go to see? A We went before John Chambers. I forget who they all were.

Q Did you have a lawyer? A Yes sir.

Q A Cherokee lawyer? A Yes, sir.

Q Who was it? A Old J. P. Boudinot.

Q He took you in before the Court? A Yes sir, and got us a certificate that admitted us.

Q Well suppose a man didn't have anything to employ a lawyer when he got there? A Well I don't know what about it.

J. S. Davenport: Was Joshua Whitmire any relation to you? A Yes sir.

Q Didn't he apply to the Bob Daniels' Court and was admitted?

A I don't know what Court admitted him.

Q Have you been living in the neighborhood that he lived? A Not at that time; he was living at Tahlequah at that time.

Q He applied to some court and was admitted? A Yes sir.

Q You know Sam Webber applied to the Bob Daniels' Court and was admitted? A No, he wasn't admitted because we were altogether. He might have been admitted afterwards.

Q Do you swear that Sam Webber and his children weren't admitted as Freedmen and entitled under the treaty of '66 by the Bob Daniels' Court? A I know we were there altogether and we left together, and they might have gone back, and I went down to Sam Webbers and a whole lot of us.

Q Who else besides Sam Webber? A I don't know who all.

Q Was Johnson Webber along? A I don't know.

Q Was Charles Campbell along? A No sir, he wasn't along.

Q You did go with Sam Webber? A Yes sir; Mike Sanders.

Q And you don't know whether Bob Daniels' Court admitted him or not? A No sir, I know they were admitted by some court; they didn't do it at that time.

Q You know what court admitted them, don't you? A No sir, I don't know.

Q You have been the trustee for the Freedmen of this country in all the litigations, haven't you? A I have for years.

Q And you know all about the Freedmen? A I don't know them all; I know some.

Q You have known Sam Webber for years? A I have known him all my life.

Q And then don't know what court admitted him? A No sir, I never inquired about it.

Q But you went with Sam Webber to the Bob Daniels' Court? A Yes sir, and I went into the Chamber's Court.

Q Did Sam apply to the Chambers' Court? A I don't know; we went right on ourselves.

Mr. Mallett: Did you put up any money when you went down there to your lawyer or to the Court? A O, no sir, we paid our lawyer for his services.

Q How much did you pay him? A I believe I gave him a horse. I paid him for my cases, for the two cases; there were three cases, four with my wife.

Q You never made any headway until you did get a lawyer, did you? A No sir, I didn't.

Commissioner: Did Jack Starr go with you any time to the Court? A Well I guess Jack Starr was along the time we went to the Bob Daniels' Court.

Q Do you remember it? A Yes sir, I remember it.

Q Did you get any satisfaction out of the court at that time? A No sir, I didn't.

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- Q It was afterwards that you went to the Chambers' Court, was it?
A Yes sir, afterwards.
Q Did Jack Starr go with you? A No sir.

J. S. Davenport: I would like to offer that part of the minutes in the Sam Webber case found on page 84 of the Minutes of Special Court of Session of the Supreme Court of 1871.

Mr. Mellette: I object to that because the action of the report in the Webber case is not material in the case at bar. I desire to object to the introduction of that because it is not a proper authenticated proceeding of that court, and because the introduction of the admission of Sam Webber is not material in the case before the Commission.

Commissioner Breckinridge: I would like to ask the representative of the Cherokee Nation if this journal of the Court was kept by the order of the Court and approved at regular periods of the Court.

J. S. Davenport: It was kept by the Clerk of the Supreme Court; had the power to hear and determine these character of cases by the Supreme Court, and the Clerk of the Supreme Court kept the record.

Commissioner: But the point I want to inquire about is whether that record kept by the Clerk was by the order of the Court?

J. S. Davenport: Yes sir.

Commissioner: And if the record is approved at stated periods by the Court.

J. S. Davenport: No sir, they required the Clerk to keep it as the proceedings were had.

Commissioner: But it wasn't approved by the Court? A No sir, he was told to keep a correct journal of the proceedings of the Court.

Commissioner Breckinridge: The Cherokee Counsel is desired to supply the Commission with the book of minutes of the Special Court of Session, Supreme Court, 1871, when they are through with the use of it in these current proceedings. But the present examination of the minutes does not indicate that these minutes are of the nature of an approved journal.

Sam Webber recalled by Commissioner Breckinridge:

- Q Did you go with your father to Tahlequah? A Yes sir.
Q When he went there to prove your rights as a Cherokee Freedman?
A Yes sir.
Q Did Jack Starr go with you the same time? A I can't remember whether he went or not; there was a big crowd that went.
Q Did you go there more than once? A I never went with him but the one time, but there were others went after that.
Q I am talking about you and your father. You and your father, went once? A Yes sir.
Q And that is all you and he went? A Yes sir.
Q That was before the Chambers' Court sat? A Yes sir.
Q Did you and your father get your rights acknowledged by the Court you went to? A We did that time.
Q You were never called in question afterwards? A No sir.
Q Did you employ a lawyer? A No sir, we didn't employ a lawyer.
Q Did you go with your father before the Court? A I didn't go in; father went in.
Q Did your father employ a lawyer? A No sir, he didn't employ a lawyer; he told me that.
Q Do you know anything about Jack Starr applying at that time?
A No, sir, I don't know whether he did.
Q Do you know whether he went into the Court or not with your father? A No sir.
Q Do you know whether he went into the Court at all? A No sir.
Q Did you have any talk with Jack Starr about the proceedings of that Court before you left there? A No sir.
Q Have you ever talked with him since about it? A No sir.

This will be filed as additional testimony in
Shayeska Bonafide case.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 15th day of July, 1901.


J. B. Bonafide
Commissioner.

30443

RECEIVED JUL 16 1901

DEPARTMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUL 16 1901

ACTING CHAIRMAN

Mr. A. A. [illegible]
[illegible]
[illegible]

[illegible text]

SUPPLEMENTAL, D 443.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 24, 1901.

In the matter of the enrollment of Jack Starr as a Cherokee Freedman; HARRY STILL, being sworn by Com'r Needles, testified as follows:

Appearances:

Mr. Louis Brown, for the applicant;
Mr. W. W. Hastings, for the Cherokee Nation.

BY MR. BROWN:

- Q State your name? A Harry Still.
Q What is your age? A 54. My post-office is Hayden.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q You know Jack Starr? A Yes sir.
Q You know when he returned to the Cherokee Nation after the Civil war? A When I saw him was in '66.
Q Where has he been living? A On Big Creek, ever since.
Q Has he any children? A Yes sir.
Q You know whether he has a child named Charley Starr? A I know himwell; I have knowed him all his life.
Q BY MR. HASTINGS:
Q Where did you see Jack Starr first after the war? A First time I saw Jack Starr after the war was in Ft. Scott.
Q But where in the Cherokee Nation? A On Big Creek.
Q What place on Big Creek? A Where he lives now, about half a mile from where he lives now, in the edge of the timber.
Q That's where you saw him? A Yes sir.
Q That was in '66? A Yes sir.
Q How long before Christmas? A Some time in November.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green

Subscribed and sworn to before me this July 8, 1901.

[Signature]

Commissioner.

21

FD-443

7

Subscribed and sworn to before me this August 19, 1961.

Commissioner of the

Report as given in the above styled case.
and that same is a true and complete copy of the testimony of Sam
Commissioner of the R. C. Glavin, which he made the following copy
R. C. Green, being first duly sworn, states that as aforementioned to the

himself and his family, came. A. He did not know I know.
back to the Cherokee Nation and more than two months before this.
of you are then sure that Jack Green and his family didn't get
of you were if wasn't two months, A. No sir.
months, I know, before that. I didn't know it was
of was it a month or two months before I saw it. It was not quite two
months. A. They came later. It was in the fall of 1959.
of how long after that was in the fall of 1959 and his family
Jack Green and his family. A. Yes, Green and his family. A. Jack
of which came back first. Jack Green and his family. A. Jack
Examined by Cherokee Nation and his family. A. Jack
6 Did she live with Jack Green and his family. A. Yes sir.

DEPARTMENT OF JUSTICE
COMMISSIONER OF THE
AUG 19 1961

To be filed in case of ^{Jack} ~~Charles~~ Starr, et al, CFD-344.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T., June 7, 1901.

In the matter of the application of Lizzie Starr for the enrollment of herself as a Cherokee Freedman; being sworn and examined by Commissioner Breckinridge she testified as follows:

SAM WEBBER, being sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Sam Webber.
Q How old are you? A About 58, as near as I can remember.
Q What is your post-office? A Nowata.
Q How long have you lived in the Cherokee Nation? A I was born here, and returned here in '66, and have been here ever since.
Q Are you on the roll of 1880 as a Cherokee Freedman? A Yes sir.
Q Do you know this woman here? A Yes sir.
Q What is her name? A Lizzie Starr.
Q What is the name of her father? A Jack Starr.
Q Has she got a brother named Charley Starr? A Yes sir.
Q You know his wife? A Her name was Hannah Whitmire before he married her.
Q Now do you know this woman's mother? A Yes sir.
Q What was her name? A Charlotte Starr.
Q Was she a slave in the Cherokee Nation when the war broke out?
A Yes sir.
Q Have you known this woman all her life? A Yes sir.
Q Has she lived in the Cherokee Nation all her life? A Yes sir.
Q She is a daughter of Charlotte and Jack Starr? A Yes sir.
Q Charlotte is dead? A Yes sir.
Q Been dead many years? A Yes sir.
Q To whom did Charlotte belong before the war? A Johnson Whitmire.
Q Was Johnson Whitmire a recognized citizen of the Cherokee Nation? A Yes sir.
Q You knew him as such did you? A Yes sir.
Q Where did Charlotte and Jack go during the war? A They went to Kansas.
Q Do you know when they came back from Kansas? A Yes sir.
Q When? A They come back in the fall of '66, just behind us, in the crowd of Dave Mayes and them.
Q Did they have any children living at that time with them? A Yes sir.
Q Who was with them? A Had a son they called Aaron Starr, he died.
Q How long has he been dead? A I couldn't tell you exactly, it has been right smart little bit.
Q Do you know when Charlotte and Jack were married? A No sir, I don't know nothing about their marriage, it seems they were married before the war; they were together.
Q Back in slavery days? A Yes sir.
Q Did they live together until Charlotte died? A Yes sir, right there on the Creek.
Q How long after you got back was it when Charlotte and Jack got back? A It wasn't but a few days, they was on behind us, and come in a short time after we moved in there.
Q Did they settle in the same neighborhood where you did? A Yes sir.
Q Did they live there until Charlotte died? A Yes sir, right there.
Q When was it you got back? A We got back in the first part of April, of '66.
Q And they came a few days afterwards? A Yes sir, short time after.
Q And Charlotte lived there until she died? A Yes sir, lived right there and died there.

Q Did she live with Jack until she died? A Yes sir.

Examined by Cherokee Representative Davenport:

Q Which came back first to the Cherokee Nation here after the war, Jack Starr and his family, or Abraham Ward and his family? A Jack Starr.

Q How long after that was it until Abraham Ward and his family come? A They come later, it was getting cool.

Q Was it a month or two months or a year? A It was not quite two months, I know, before they pulled in there.

Q You sure it wasn't two months? A No sir.

Q You are then sure that Jack Starr and his family didn't get back to the Cherokee Nation any more than two months before Abraham Ward and his family came? A No sir, not that much I know.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the testimony of Sam Webber as given in the above styled case.

M.D. Green

Subscribed and sworn to before me this August 16, 1901.

Commissioner.

98
FD 443
D.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of A. D. 190....

Given under my hand this.....
day of..... A. D. 190....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

..... day of 190....
McClure Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

.....
on the day of A. D. 190....

Subscribed and sworn to before me
this

1 DEPARTMENT OF THE INTERIOR,
Notary Public
COMMISSION TO THE FIVE C. ALIZED TRIBES.

FILED
SEP 21 1901

W. H. Smith
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Jack Starr
for enrollment as Cherokee citizens:

Case No. D 443

To Jack Starr or Mellette & Smith his Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 17th 1901 or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sept. 20th, 1901

L B Bell
W. W. Hastings

Attorneys for the Cherokee Nation.

P. D-443.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskegee, I.T., May 31, 1902.

In the matter of the application of Jack Starr for the enrollment of himself as a Cherokee Freedman.

APPEARANCES:

Lewis T. Brown, representing Mellette & Smith, for applicant.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that the testimony filed by the Cherokee Nation in the case of Ed Wright, D-818, also in the case of Aaron Webber, D-816, also in the case of Elizabeth Meigs, D-391, together with the supplemental testimony of Reuben Sanders in the case of Elizabeth Meigs, be filed with and made a part of the record in this case.

COMMISSION: This testimony will be filed with and made a part of the record in the case of Elijah Starr, et al, D-800, as well as in the case of Jack Starr, D-443, the same being the case at bar.

Arthur C. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Arthur C. Croninger

Subscribed and sworn to before me this 1st day of July, 1902.

Real 1

J. R. Renter

Notary Public.

Supl. S. D. #818. Freedmen.

Department of the Interior,
Commission to the Five Civilized Tribes,
Lawkagee, I. T., March 4, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
EDWARD WRIGHT as a Cherokee Freedman, introduced on part of the
Cherokee Nation.

The Cherokee Nation by its representatives makes satisfactory proof of service on E. H. Lawson, the attorney for the applicant in this case, that testimony would be introduced by the

representatives of the Cherokee Nation tending to disprove the right of said applicant, Edward Wright to citizenship in the Cherokee Nation at the office of the Commission in Muskogee, Indian Territory, on the 3rd day of March, 1902, and from day to day thereafter until he was heard by the Commission during the usual business hours.

Cherokee Nation present by its representative, L. H. Bell.

C. V. Rogers, being duly sworn, testified as follows on part of the Cherokee Nation.

MR. BELL:

- Q Tell him your name. A C. V. Rogers.
Q Age? A 63 years old.
Q Place of residence? A Claremore.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q How long have you been such? A All my life, a little over 63 years.
Q Did you go out of the country during the war? A Yes, sir.
Q When did you return? A '68.
Q Where did you come to? A Come to Fort Gibson.
Q And stayed there did you? A Yes, sir.
Q Well what was your business? A After I come back.
Q Yes? A I followed freighting for something over three years.
Q Where and between what places? A Sedalia and Pleasant Hill and Kansas City to Fort Gibson.
Q Were you ever acquainted with a freedman by the name of Moses Whitire? A Yes, I knew him.
Q Where did he belong before the war? A He belonged in Coing, Snake District.
Q Do you know what particular Whitire he belonged?
A I don't remember whether he belonged to George Whitire or Bob Whitire.
Q If you did see him when did you first see Moses Whitire after the war, after your return to the Cherokee Nation?
A As well as I can remember it was in February, '68; I met him just on this side of the Neosho River, as they were moving back to this country from Kansas. There was between 24, from 24 to 30 wagons and I met them right on this side of the Neosho River; Dick Whitire, Moses Whitire and Aaron Whitire and old Major Wright is all I knew in the party.
Q Did you have any conversation with them, stop and talk with them?
A Yes, sir, and Col. Bill Ross passed while I was talking to them going to Fort Scott.
Q Did you ask them where they was going to? A They said they was moving back.
Q Well this 25 or 30 wagons was loaded with people?
A Yes, mostly every one had household goods in them.
Q Colony of Cherokee Freedmen? A Yes, sir, coming back to the Cherokee Nation.
Q Well now that was where you say it was? A It was right on this side of the Neosho River; between the old Hudson place and Neosho River.
Q How far from the Neosho River? A I suppose half a mile.

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Q How far from the north line of the Cherokee Nation?
A I think the river is the line, about half a mile.
Q And how far is that from the Kansas line? A The Neosho is the line, way I understand it.
Q You had reference to where the military road crosses the Neosho river? A Yes, sir.
Q At Jack McLain's ferry? A They called it Hudson ferry at that time.
Q Hudson lived there? A Yes, sir, in about a half mile.
Q And this Moses Whitmire you met and talked with is the same one you knew in Going Snake and belonged to the Whitmire family there?
A Yes, sir.
Q About how old a man was he when you met him? A He is an older man I think than I am.
Q And you saw other with him you know? A I think Aaron Whitmire and Moses Whitmire and old Major Wright is the old ones I know.
Q And you talked with him there? A Oh, I guess I talked with him ten or 15, 20 minutes and while I was talking to him Col. Ross passed going to Fort Scott.
Q Do you know where this man Whitmire lives now, Moses Whitmire you met?
A No, I don't know where he lives.

MR. HASTINGS, Cherokee Representative:

Q Don't you know he lives on Salt Creek near Hayden? A No, I don't know for certain I heard he lived on Big Creek. I don't know though where he lives, I have seen him ever since I have been here. I don't think I ever was at his house.

—00000000—

I hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings had in this case on the above facts, and that the foregoing is a true and complete transcript of my stenographic notes thereof.

(Signed) J. O. Kaston.

Stenographer.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washkoger, I. T., May 20, 1902.

In the matter of the application of Edward Wright for the enrollment of himself as a Cherokee Freedman.

APPEARANCES:

Ben J. Scoville, representing E. B. Lawson, for applicant.
W. W. Hastings, for Cherokee Nation.

COMMISSION: The Cherokee Nation, by its representative, makes satisfactory proof of service on the applicant's attorney that it would, on the 20th day of May, 1902 introduce testimony tending to disprove the right of the said Edward Wright to enrollment as a Cherokee Freedman. The applicant this day appears by his attorney, E. B. Lawson, who is represented by Ben J. Scoville, Nowata, Indian Territory.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Cherokee Commission on Citizenship as found on page 57 of a book taken from the records of the Executive Department of the Cherokee Nation entitled, "Docket of the Cherokee com'n on citizenship," as follows

"No. 85 Edward Wright
vs
Cherokee Nation. (Ex. 7th of June.
(Answer filed.

Judgment against claimant June 27, 1879."

The Cherokee Nation also offers in evidence from the same record as above page 57 of the same, the following:

"No. 88. Major Wright
vs
Cherokee Nation. (Ex. June 7th. Statement filed
on the 26 of June.
1st July set, 1st Aug.
set for trial.
Judgment against claimant June 27th, 1879."

The Cherokee Nation offers in evidence the application made for citizenship in the Cherokee Nation by Lewis Whitmire on the 26th day of June, 1878, as found on pages 164 and 5 of book B, entitled, "Citizenship record 1874," as follows:

"Before the Commission sitting at Tahlequah to rev claims to Cherokee citizenship.

The undersigned claimant in the case of
Lewis Whitmire

vs
Cherokee Nation

respectfully presents the following statement of his claim according to the requirement of the Commission.

Claimant claims under classification five of claimants in the law creating this Commission, that is, as a colored person formerly a slave owned by a citizen and resident of the Nation at the

beginning of the late war, freed by law and made a citizen of this Nation by provision of the treaty of 1866. For

claimant was at the time and place above said owned by George Whitmore, a Cherokee citizen, left the country during the war and returned in the summer of 1866 to select and prepare a home for his family (they then being without one) and again the following year prosecuting the work on his circumstances and the condition of the country at that time prevented and leaving his family in the intervals of time when they could subsist without discomfort and exposure and until a removal of them was practicable which removal of claimant finally was accomplished to the point of the Nation settled by claimant for theirs and his home in the spring of 1867.

Claimant's rights have been called in question by constant authority, and he therefore presents them to the important examination of this Commission as are authorized to do by law.

This June 26, 1872.

Lewis Whitmore,

By W. P. Boudinot, Atty."

The Cherokee Nation offers the following from the same book and continuing on the same page, the application of Moses Whitmore as follows:

"Before the Honorable Commission sitting at Tahlequah to try rights to Cherokee citizenship.

In case of Moses Whitmore

vs

Cherokee Nation,

claiming Cherokee citizenship.

Claimant claims under the fifth specification of the classes of claimants to citizenship as found in the law creating this Commission, to wit as a colored person formerly a slave owned by one George Whitmore, Cherokee citizen, resident of this Nation, at the beginning of the late war, and freed by law and made a citizen by provision of the treaty of 1866. Claimant respectfully refers to the statement by claimant Lewis Whitmore as embracing the facts which the present claimant would submit to the Commission as the grounds of his claim.

Respectfully submitted,

Moses Whitmore.

June 26, 1872.

By W. P. Boudinot, Atty."

The Cherokee Nation offers in evidence from a book taken from the Executive Department of the Cherokee Nation entitled, "Register of evidence before court of Commission Cherokee Nation, Book 1," page 239, case No. 50, as follows:

"Case 50.

Aaron Whitmore

vs

Cherokee Nation,

Tahlequah,

July 3, 1872.

Nike Fields a witness for claimant called and sworn.

I am I think I am about 47 years old. I live in Illinois first lot, S. W. Am a citizen of the Nation. I have been on the doubtful roll but had my rights moved up before the Supreme Court.

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Am a citizen under the treaty of 1866. I went north to the state of Kansas in '62. I returned in August - 31st or 22nd, 1866. I left my family in Fort Scott when I came. I came down to get me a claim. I staid about three weeks that time, and then returned to Fort Scott. After I returned to Fort Scott there were others who started down, the Whitmires were of that number. The claimant was one of them. They came down in Decr. 1866. They returned to Fort Scott before I left there. I left Kansas about the 2nd week in January, 1867 and got to the crossing of the Neosho river about the last of January. When I first come down there was about 15 in the party. They left their families in Kansas when they came down here. There was some of party come with the Whitmires who piloted the Whitmire party and my party were Sam Webber, Mike Daniels, Sam Webber, Jr., Aaron Webber, Reubin Sanders, Tuck Sanders.

The Whitmire proper were Aaron, Lewis, Moso, Dennis and Nelson Whitmire and others that I do not recollect. The object of this party coming was for the purpose of erecting houses. When I moved with my family I stopped on Pryors Creek at Mrs. Alberty's and remained about two weeks. The reason we left that part of the country was because that part of the country was too sparsely settled and bare of subsistence. As I was coming down the first time we were overtaken by the Cherokee Delegation. They were sore who come here were authorized by others to locate claims for them, one was by McKey requesting Abe Fields to locate for him. The original request filed.

Cross Examined.

I can not remember the date I arrived here the first time from Kansas. The claim we made I got three sets of house logs, hauled them and piled them up, and some of the men put up houses, I did not put up a house. I started back to Kansas about the middle of September. When I first left the country it was in February, 1862. I was a slave before the war and was owned by Sam Taylor when the war broke out. He was living on Greenleaf near Bushy Mountain on this side of Arks. River. When the Whitmires returned to Fort Scott I do not know when they left there to come to this country as I left them there when I left. It was reported when they returned to the Nation that the Whitmire party had built houses. But I do not know this myself as I was not along. I only heard they had. The War closed in 1865 I think. I did not know it myself but people told me who could read.

I do not know myself that it was the month of Aug. When I come here first, but I was told it was that time.

Re Direct.

It was the December following the time I first came down that the Whitmires come down first to select and improve claims.

Nick x Fields.

his mk.

Aaron Whitmire)	
vs)	August 1, 1878.
Cherokee Nation.)	Bluford Alberty, witness for claimant,
called and sworn.)	

I reside in Cooweescoowee District, C. N. I am a native Cherokee citizen. I left the Nation during the war. I returned to the Nation on the west side of Grand River, Cooweescoowee District.

on the 3rd of Sept. 1866. I had occasion some time in the last of October or the first of Nov. or probably it might have been as late as the middle of November, to go to the Verdigris. While out there I fell in with a party of seven or eight persons who were camped with others near Sam Crouches. I did not go to the camp. They were colored people. I knew most all of them. Their names were old Sam Webber, Aaron Whitmire and a younger brother and Lewis Whitmire.

There was another person whom I was told was a bandit. I do not recollect any of the others and cannot identify them. The Whitmires were Johnson and George Whitmire, Aaron Lewis and his mother belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim McDaniel had got home. I told him I had not seen the treaty but had heard rumors about it. He told me they had come to pick themselves homes on the land and that he was the leader of the company and the reason why they were there was that he was an old man, but the people had sent him down to work for him and make him a claim. He said that there was a chance there was to get provisions over on the river, but that there was none there, but that there was a lot of flour and corn and if they would go there they would get it. He also represented that they had come down to make claims for others who had remained in Kansas, to build them houses and that they were notified to come, and that they had accordingly come to make claims for themselves and the other that they left behind in Kansas. As near as I can recollect it was some time in October or November that I saw these parties. It was not very cold weather at the time. I recollect as I camped out at night. I did not see any of these parties after this time May 1867. There was no provisions to be had in this country at that time. Provisions were very scarce. It was my understanding that they had come to prepare homes for themselves and families. They told me so at least. Major Wright belonged to Cornelius Wright before the war.

Cross Examined.

I heard after this more of them went back to Kansas. At the time I met them I do not know whether their families were with them. I think I seen Dennis Whitmire with this party, but do not recollect of seeing Dennis or Nelson. I know there was four of the "Red" boys. They were owned in the Nation and resided here up to the breaking out of the war.

B. W. Alberty.

Aaron Whitmire
vs
Cherokee Nation.

I know Melissa Ratliff. She was twelve or thirteen years old at the close of the war.

She was living with us then and still lives here. Her father, a bandit, was one of the band above referred to, also present. I learned from our leaders Uncle Mike and Sam Crouches that the delegates addressed us to settle in a compact body on the Indian lands. We crossed the Neosho in coming down at Holbrook, Kansas, 1866. The chief ferryman who crossed us was Bill Latta.

While on Lightning Creek in 1866 I saw Mr. Alberty in conversation with him, but Sam Webber had in my presence.

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Cross Examined.

I am a claimant before this court for citizenship. I am a half-brother of Aaron Whitmire, Louis, Dennis and Nelson are also my brothers. Mariah Whitmire is my sister. Major Wright is my stepfather. The names of the party that come with me to the Nation are as follows: Mike Sanders, Sam Febber, Peter Reigs, Bill Foreman, Tuck Sanders, Ransom Daniels, Sam Febber, Jr., Louis Whitmire, Nelson Whitmire, Dennis Whitmire, Aaron Whitmire, is all I can recollect now. Witness and my brother were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright. I can't name any others. Witness was a man of family in 1866 when we came on from Kansas. My family was at Fort Scott. Melissa Ratliff, Ed Wright, and my wife and myself composed my family. Louis had no family. Aaron and Nelson did. Major, Sam, Nelson and Allen were Aaron's children and his wife, Sarah. They were left, the wife and children in Fort Scott when we came in 1866. Eliza Sanders, Thos. Sanders were Nelson's family and back at Fort Scott. We went back 1st January 1866 to Kansas after coming to the Nation. Then witness returned in 1867 to the Nation Aaron, Louis, Nelson, Dennis, Ransom Daniels, Tuck Sanders, Peter Reigs and the families of those who had families all come as I did besides others not particularly remembered. This was the first time any of our families had been to the Nation, at least mine, Aaron's and Nelson's.

The first time Mariah Whitmire was in the Nation after the war closed was after our parties returned in families in 1867.

The first time Major Wright returned was on our first trip in 1867. Melissa Ratliff was owned by one Alec Ratliff at breaking out of war. She first came in March 1867. Jack Landrum was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Alberty as a witness in this case.

Re Direct.

Mariah's family at the close of the war was a separate family. Harry Whitmire, her son, represented his father on the first trip in 1866. Witness is about 53 yrs. old. Major Wright was an old man at the close of the war. Louis Whitmire had been back to the Nation before 1866.

Attest

D. L. Nicholson,
Clerk.

his
Moses Whitmire.
Mark.

Case 63.

Aaron Whitmire & family)
vs)
Cherokee Nation.) Claiming citizenship.

Now comes claimant by Atty before the Commission sitting at Tahlequah to try certain claims for citizenship in the Cherokee Nation and makes this his statement of his grounds for said claim to wit-

Claimant is a colored person and claims as aforesaid under privilege of the fifth specification of the classes of claims preferred by law to the Commission to examine and decide rights by competent authority having been denied citizens.

Claimant belonged to Geo. Whitmire a Cherokee citizen at the commencement of the war of the rebellion and was then living in this

Nation. After the beginning of said war claimant moved to or the vicinity of Fort Scott with his family at which location he resided until the summer of 1866 when he returned to this Nation and proceeded to select and improve a home on the Verdigris River for himself and family's permanent residence. While he was thus making preparations for the removal of his family by providing for their habitation and subsistence at the place mentioned they his family remained where they had been sojourning during the war.

Claimant was compelled by unfavorable circumstances and the attention he was obliged to bestow upon his family to omit his work upon his improvement on Verdigris River from the early fall of 1866 to the early winter of the same year, when he resumed labor upon his improvement, after which he removed his family as soon as practicable to wit in the spring of the year of 1867.

Claimant claims to have returned to this Nation in his own person and as representative of his family within the time provided for by treaty, in that having no residence to come to as other former citizens he did everything possible to constitute a return consistent with the duty he owed to his family by laboring as far as his means allowed to provide a home in this Nation.

Respectfully submitted,

Aaron Whitmire,
By Atty Wm. P. Boudinot.

Aaron Whitmire
vs
Cherokee Nation.

August 1st, 1878.

Wm. Martin, witness for claimant, called and sworn.

I live on Big Creek, Coconawapoo, C. N. Am a citizen of the Nation. From August up to Christmas 1866 I was at the ferry on the Neosho River on the old Military Road leading from Fort Scott, Kansas to Fort Gibson, O. N. Am acquainted with claimant and his brother, Lewis, never knew Aaron until I met him at the river. Lewis I knew prior to that time. While I was in charge of the ferry I recollect having met claimant and Mose, Lewis, Dennis and Nelson, Whitmire, Peter Reigs, Mike Sanders, Sam Webber, and Young Sam. They were traveling. They stated they were coming from Fort Scott, Kansas, they were traveling from the direction of Fort Scott. I crossed them from the Shawnee side of the River into the Cherokee Nation, they inquired the road to Big Creek. Mose gave them the directions to the head of Big Creek. They stated the reason why they were coming was that the Cherokee Delegation had invited them to come back under the treaty. They mentioned Jim McDonald as the principal one who had invited them and they were then on their way to select themselves homes.

It was after the Delegation returned that I met claimant and the others spoken of it was pretty cold weather when I crossed them. It was as near as I can recollect about the last of October, 1866. I am positive it was before Christmas at I left them at Christmas or probably a few days before Christmas.

Gross Examined.

I was not acquainted with the claimant nor any of the others named previous to the war.

I do not know who owned before the war. I do not know whether they had lived in the Nation previous to the war. I do not recollect of seeing any of the families of the parties named at this time.

FOR ORIGINAL -
BEST AVAILABLE COPY

I crossed them over the river. I got so of this same party back over the river a short time after they had come in, Lewis, Walcott and Dennis Whitmire and little Sam Webber and I think they were more who crossed back but I can not place them now. I learned the names of the parties from conversation with them, but did not become particularly acquainted with their names at that time. I think there was one woman with the party, I think she was little Sam Webber though I would not be right positive that there was a woman along or not. I was positive there was no children as I never seen any. They had camped the long enough that were they any women and children I would have known it. The next time I saw claimant was in the fall of 1867 on Big Creek. I learned from them that they had got there in March 1867. I know this from having heard it generally talked amongst themselves.

Be Direct.

At the present time the distance between our two settlements is about 6 miles. I recognize the claimant and the other parties spoken of. I have been there frequently since that time, I got them over the river. When I saw them in the fall of 1867 they had their families with them then. The means of subsistence at the time I crossed in the country at that time was short.

William Martin.

Aaron Whitmire
Vs
Cherokee Nation.

July 4th 1873.

Wm. McGracken for Claimant.

Witness met claimant near Fort Gibson in Novr. or Decr. 1866. Met him at the ferryboat on Grand River.

Witness had a conversation with claimant at the ferry in which claimant said he was on his way to Going Snake his former home in the Nation and seven of claimant's brothers were behind on the road.

Witness is a citizen of this Nation and knew claimant before the war.

Attest:

Wm. McGracken.

D. L. Nicholson, Clerk.

Aaron Whitmire
Vs
Cherokee Nation.

Sturford Alberty.

George Whitmire before the war lived in Going Snake Dist. This Dist. borders on the line of the State of Arks.

Claimant now resides near the western line of the Cherokee Nation. The settlement before the war was sparse where claimant now resides. I could say the distance from where George Whitmire resided prior to the war, and claimant's present residence is 90 or 100 miles. Witness states that he had a conversation with Sam Webber in which Webber assigned as a reason for settling there he had was that Agent Jones advised the colored people after their freedom to settle in colonies or as they liked as it was convenient to do in an unoccupied part of the country.

This was thought best for the colored man as they could have their own schools as until matters were more regulated in the country.

The first conversation was in the fall of 1866. The second conversation was in the spring of 1867. I saw several of their families in May, 1867 on Big Creek or Lightning Creek in the Nation.

The home of Claimant is in the same locality as that at the time mentioned above. In Oct. or Nov. 1865 I gave Claimant and other colored men permission to occupy two old fields in that neighborhood for the purpose of raising crops the year following. Louis Whitmore is the name of the other man; I also permitted to go on the old field. The spring of 1867 I saw Aaron and Louis Whitmore at work on the two fields spoken of. This settlement of colored folks has the character of quiet industrious and law abiding citizens as much as any in the Nation. Some of these people have large and good farms all made by themselves since the war.

Witness with a party of six gentlemen in the fall of 1866 saw this colored party who settled on Big Creek afterwards in the neighborhood for no purpose as they called the time of selecting their homes. Several claims was then in sight of witness which the colored party said they had selected and are now the homes of the party above indicated.

Aaron Jones was at the time advising said Col party. A delegation for the Cherokee Nation at Washington. There were parties as witness learned from one of them who wished to expel or drive off from their claims this colored party at the time they were prospecting the country. This was advised against by witness and it was not done or carried out. Witness' party spoken of above was composed of Cherokee citizens except one colored man. I am the sole survivor of this party except the colored man and possibly one other. Occupation of witness is herding wild cattle. I travelled a good deal in that neighborhood at that time spoken of.

Continued on page 203.

Aaron Whitmore et al }
vs }
Cherokee Nation. } John Wiley

sworn as witness for Deft. I live in Coconosconce Dist. I first moved there in 1852 and have continued to reside there except in time of war. I came back in the month of August 1866 to the Nation. I knew Aaron Whitmore. He returned or came to the Verdigris River to live in the month of March 1867. Also came at the same time pet & Kelly, Mike Sanders, Sam Webber, Billy Foreman, with their families and others whom I don't recollect. Claimant made a cross that spring in 1867 on an old place of Aaron Whitmore. He had settled up there before that.

Cross Examined.

I don't know of any colored heads of families coming in to the Nation in the month of Decr. 1866 to locate homes but I don't of some who come in Sept. '66 for that purpose. I knew where Aaron Whitmore lived at this time. I was upon Goody's Bluff in Decr. '66. I live on the west side of the river. Claimant lives and settled on the east side of the river. If any heads of families came in Decr. 1866 I never heard of them. I never knew of Bluff or Albany being in the part of the country in 1866 in the party who came down in Sept. 1866. Aaron Whitmore was not along but Mike Sanders, Sam Webber, Colbert & perhaps Billy Foreman. Moses was not along. Dennis was not along as I know of nor Mariah nor Major Wright nor Aaron Whitmore that I know of. If my men party had come down in Decr. 1866 I think certainly I would have known it.

John Wiley,
Respondent.

About the middle of May 1867 I first saw this party with their families at their new homes. Claimant and others of this colored party told witness that they returned in March 1867 to the Nation.
Re Direct

I learned from John Coker that most of this colored party returned to Kansas after their families and a few remained. I was at General Convention of the Colored People in 1866. It was witness' understanding that the purpose of said convention was to ratify the treaty of 1866. I think the object of the convention was to ratify amendments to the Constitution under the treaty and to ratify the treaty. The treaty was concluded the 9th of Aug. 1866 is my information. It might have been July 18, 1866.

Witness went north during the war. J. B. Jones was not at the time herein mentioned U. S. Agent but was a Delegate and was Agent afterwards.

B. V. Alberty.

Attest

D. L. Nicholson,
Clerk.

Aaron Whitire

vs

Cherokee Nation.

Tahlequah May 16, 1878.

This day comes John F. Lyons Atty for Cherokee Nation and denies all and singular the allegations of claimant contained in the above named case.

John F. Lyons,
Atty for C. N."

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes ther of.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 2nd day of June, 1902.

(SEAL)

(Signed) P. G. Reuter.

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and complete copy of the original now on file with the Commission, as the same was copied by me.

Subscribed and sworn to before me his 15th day of Aug., 1902.

Druce C Jones
Notary Public.

File with Cherokee Freedman

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 9, 1901.

In the matter of the application of Aaron Webber for enrollment as a Cherokee Freedman.

Aaron Webber, being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Aaron Webber.
Q How old are you? A 36 I think.
Q What is your post office address? A Wymer, Cherokee Nation.
Q What district do you live in? A Cooweescoowee district.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A Just myself.
Q Have you ever applied to be enrolled by any other tribe or Nation besides the Cherokee Nation? A Yes, sir, the Clifton Court and the Wallace Court.
Q The you apply to any other Nation, the Creeks? A No, sir.
Q Never drew any money from any other Nation? A No, sir, I didn't.
Q Have you been recognized by the Cherokee authorities as a Cherokee citizen? A Yes, sir.
Q Is your name on the roll of 1880? A It is on this roll here Mr. Bledsoe has got here; I ~~came~~ come with my brother Sam Webber.
Q Is your name on the roll of 1880? A No, sir.
Q Did you ever draw your strip payment money? A Yes, sir.
Q How much did you draw? A \$15.50, and then I drew this other payment; this last payment, I drew it.
Q You drew the last payment? A Yes, sir.
The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.
The 1896 census roll of Cherokee Freedmen examined and the applicant not identified thereon.
The Kerns-Clifton roll examined, and the applicant identified thereon, page 126, No. 315, Cooweescoowee district.
Q Were you a slave before the war? A Yes, sir.
Q Who did you belong to? A Takie Webber.
Q Was she a Cherokee citizen? A Yes, sir.
Q Where did you go during the war? A Went to Kansas.
Q When did you come back from Kansas? A Came back in 1866.
Q You been living here ever since? A Yes, sir.
Q Are you married? A No, sir.
Q Ever been married? A No, sir.
Q Got no children then? A No, sir, I haven't.
Q You are certain you came back in 1866? A Yes, sir, I did.
Q Who did you come back with? A Sam Webber and my father.
Q Is your name not on the roll of 1880? A Why I can't tell you about that.
Q Did you ever try to have it put on? A Yes, sir.
Q They refused to do it? A Yes, sir, must have, for it aint there.
Mr. W. Hastings; attorney for Cherokee Nation: You say you returned with your brother Sam? A Yes, sir, I did.
Q Did you come the first time he came out here? A Yes, sir, I did.
Q What time of the year was it? A '66.
Q What time in the year '65? A Well you see I can't read and I can't write, I didn't keep no count of the days and the months because my owner's didn't give me time to get my education.
Commissioner: Was it in the fall or summer? A It was along in March when I came back in 1866.
Mr. Hastings: Was it the March after the treaty was made? A Yes, sir.
Q You are certain of that? A Yes, sir, I am.
Q And you came back with him at that time? A Yes, sir.
Q Did he bring his family along then? A Yes, sir.
Q His wife and children? A Yes, sir.
Q He had already been out there and put up a house? A Yes, sir, I had come out before that and I come with him, and we put up a house and I came back with him in '66.

Q The first time you came back was in March after the treaty was made? A Yes, sir, that is when we moved there.

Q How long before that was it when you came out? A I can't give the days of the months, how long it was we came out, but we came and put up a house one fall and went back and came right on down.

Q About how long did you stay out here when you had put up the building? A We stayed three or four days and then went right back and moved down.

Q What kind of buildings did you put up? A We put up a log cabin.

Q Out on Big Creek? A Yes, sir.

Q How far from where Sam Now lives? A Sam lives on the north side of Nowata and we live up there on Big Creek, I can't tell you exactly how many miles, but he lives at Nowata and we live up there on Big Creek.

Q What old citizen lives near where you first located, where you first located when you first moved out? A There isn't anybody lives there now.

Q Name some old citizen who lives up at the place now where you located then? A Sam Webber.

Q Does Sam Webber live at that place now? A He did live there but he don't live there now.

Q Who lives at the place Sam and you came to? A The Meigs and Whitmires and Sanders, and a whole lot of them.

Q You have lived there ever since? A Yes, sir.

Q You came out in wagons the first time? A Yes, sir, because Sam Webber drove the ox wagon and I drove the horae wagon.

Q Do you know anything about dates? A I know when they say the year is out, and this year is in.

Q What year is this? A If I am not mistaken I think this is May.

Q The year though? A I can't tell you exactly what year it is, because I am not educated like you smart men.

Q You are satisfied in '86 you came here in March? A Yes, sir.

Commissioner: Do you know when the treaty was adopted, know what month it was adopted in, the treaty; you told Mr. Hastings you came here the March after the treaty was adopted; you don't know what month in 1866 the treaty was adopted? A No, sir, I don't.

Q Have you got any witnesses? A Yes, sir, Sam Webber, and Abe Hare.

Sam Webber, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Sam Webber.

Q What is your age? A About 58, somewhere near about that.

Q What is your post office address? A Nowata.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Your name on the 1860 roll? A Yes, sir.

Q Do you know Aaron Webber? A Yes, sir.

Q Is he any relation to you? A He is my brother.

Q Was he a slave? A Yes, sir.

Q To whom did he belong? A Takie Webber.

Q Was she a Cherokee citizen? A Yes, sir.

Q By blood? A Yes, sir.

Q Where was he during the war? A He was with us in Kansas.

Q When did he come back? A He came with us when we came back in July.

Q You came in July from Kansas and he came with you? A Yes, sir.

Q What year was that in? A In 1866.

Q He was a slave the same as you? A Yes, sir, same as me, with the same owners.

Q Ought to be entitled to the same rights you have got? A Yes, sir, have just the same right, belonged to the same parties too.

Mr. Hastings: Q What time of the year was it you say you brought him back? A We came in July and built houses and went back and moved down.

Q You had heard of the treaty passed? A We came right in the same month the treaty was made in because we overtook the delegates

at Fort Scott.

Q You had heard of the treaty before you left there? A As soon as we arrived at Fort Scott and talked to them, and they told us they had made a good treaty,

Q And you came on down and he came with you? A Yes, sir.

Q Did you bring your families at that time? A I didn't have any family then.

Q The rest of the people, they come along? A Yes, sir, I was small myself, I was with father, we came and built and went and moved some of them after that.

Q How long did you stay down there at this time? A I didn't stay long, I couldn't tell you just how long we really stayed, we didn't stay only long enough to find claims and cut logs and build shanties.

Q Who lives up there at the place that you located, now? A Reuben Sanders lives right where I built my house, he is living there to-day

Mr. Bell: Where did you start from when you started from Kansas down to Big Creek? A Started from a little creek six miles south of Mound, said to be about twenty miles north of Fort Scott.

Q Had you started to the Cherokee Nation when you came across these delegates at Fort Scott? A Yes, sir.

Q What was your notion about starting? A I had been down here and looked through the country and went back and told them the war was over here as well as everywhere else, and let's come home.

Q You hadn't started then with a view to saving your rights here under the treaty? A We didn't know nothing about the treaty, it wasn't made when we started as we knowed of, until we got to Fort Scott, and we saw the delegates.

Q What time was that? A Along in the last part of July, the last week in July, as near as I can remember.

Commissioner: When Aaron says he came in March he is mistaken?

A He is mistaken, he don't know dates; he is not bright enough to know dates.

Abraham Hare, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Abraham Hare.

Q How old are you? A About 70.

Q What is your post office? A Wymer.

Q Are you a Cherokee Freedman? A Yes, sir, claim to be.

Q Your name is not on the roll of 1880, is it? A No, sir.

Q Were you a slave? A Yes, sir.

Q What was your owner's name? A Arlie Hare.

Q Do you know Aaron Webber? A Yes, sir.

Q Was he a slave? A Yes, sir.

Q To whom did he belong? A Takie Webber.

Q Well, did you know Aaron Webber before the war? A Yes, sir.

Q Did he go out of the Cherokee Nation during the war? A Yes, sir.

Q Did you go out? A Yes, sir.

Q What made you colored people go out during the war? A We couldn't stay here.

Q Thought it was safer to go out? A Yes, sir, I had to go out.

Q Why couldn't you stay here? A They wouldn't let us.

Q Who wouldn't let you? A The Rebels and the Yankees neither one.

Q Where was Aaron Webber during the war? A He was with his father up in Kansas.

Q When did he come back? A He come back in the fall of '66.

Q How do you know? A I come with him.

Q And you came at that time? A Yes, sir.

Q Have you known Aaron Webber since that time? A Yes, sir.

Q Was he always lived in the Cherokee Nation? A Yes, sir, lives right by me now.

Mr. Hastings: Your rights are disputed? A Yes, sir, same as his.

Q You were in here this morning; your case was presented?

A Yes, sir.

Commissioner: Aaron Webber applies for the enrollment of himself as a Cherokee Freedman. His name does not appear upon the authenticated roll of 1880, but does appear upon the Kerns-Clifton pay-roll. By reason of the protest of the Cherokee Nation the name of Aaron Webber will be placed upon a doubtful card awaiting further consideration of the Commission.

Bruce C. Jones, being duly sworn, says that as Stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 10th of May, 1901.

C. R. Breckinridge,

Commissioner.

.....
Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 29th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Joe Ross
C. F. D. 350.

Appearances:

W. W. Hastings for the Cherokee Nation.
Mellette & Smith for the applicants.

DOUGLAS WALKER, being first duly sworn by Commissioner C. R. Breckinridge, testified as follows for the Cherokee Nation.
(By the Commission)

- Q Give me your full name? A Douglas Walker.
Q How old are you? A 50.
Q What is your post office? A Mound City, Kansas.

(By Hastings)

- Q How long have you lived in Mound City, Kansas? A Since May 1857.
- Q What was your father's name? A James Walker.
- Q What was your mother's name? A Miama Walker.
- Q Was your father and mother here the first of the month? A Yes sir.
- Q They testified in this matter at that time did they? A Yes sir.
- Q Do you know Samuel Webber? A Yes sir.
- Q Did you know his son Samuel Webber? A Yes sir.
- Q Where did you know them? A Near Mound City, Kansas; in the neighborhood where I live.
- Q Do you know the applicant here? Joe Ross? A I knew him as Joe Webber.
- Q Is the the same fellow? (pointing) A Yes sir.
- Q Where was he living at the time? A He lived with the older Sam Webber at the time.
- Q You know this applicant here is the same party? A Yes sir.
- Q Did you know a woman named Chlera? A Yes sir.
- Q What relation was she to Joe Ross? A Sister.
- Q Did you know Aaron Webber a little duck legged fellow? A Yes sir.
- Q Where did you know him? A In the same family in Mound City, Kansas; Linn County.
- Q Whose farm did Samuel Webber live on, if you know? A He lived on a farm that belonged to a man named Jeff Flemmings.
- Q I mean in the year 1866? A My father bought the farm.
- Q Of whom did he purchase the farm? A Of Flemmings.
- Q Do you know where young Sam Webber was married? A He was married there in Linn County, near Mound City, in the neighborhood there, where I was living.
- Q Did he marry before or after he moved from that country? A Before he moved.
- Q Mr. Walker, have you looked up the date of when your father purchased that farm? A Yes sir.
- Q The date of the deed? A Yes sir.
- Q What was that date? A The date of the deed is October '66.
- (By Mr. Smith) Object to that if you have not the deed.
- (By Mr. Hastings) Have you looked up the date? A Yes sir, but have forgotten the exact date as to days.
- Q At that time, where was Sam Webber living? A On this farm that father purchased.
- Q Where was young Sam living at the time he married? A On this farm on the same place.
- Q What is your best judgment as to the time Sam Webber, including Joe Ross, Chlera Grayson and Aaron Webber left that country with their women folks and come to this country? A According to my best recollection it was the latter part of February or early in March of '67, I can't state exactly the month; early in the spring of '67 though.
- Q Did they all move down at the same time? A All started together.
- Q Left there together? A Yes sir.
- (By Mr. Smith)
- Q You say you know that this applicant in this case is the same man that you knew at that time in Kansas as Joe Webber? A Yes sir.
- Q How did you know it? A I recognized his countenance as one man knows another.
- Q How? A Well I saw him.
- Q When? A Today.
- Q Where? A On the street.
- Q And you knew him as Joe Webber? A Yes sir, the name Joe Ross was not used much.
- Q When did you first become acquainted with old man Sam Webber? A In '63 he moved on that farm.
- Q Which farm? A The farm my father bought in the neighborhood where I lived, the old Flemming farm.
- Q When did your father buy that farm? A In the fall of '66, I have forgotten the exact day, in October or September.

Q Who owned the farm at the time old man Sam Webber was on it? A Jeff Flemming owned it until my father bought it.

Q How do you know it was '63 that you became acquainted with Sam Webber? A I remember that it was during the last years of the war and the refugees were coming into Kansas, both white and black, in '63 and they were amongst them.

Q Did any come after '63? A Yes sir some came later and some come earlier, and I remember again by this farm, I remember how long they farmed it before we got it.

Q How long? A Three years--four years in the spring of '67.

Q They farmed it four years before your father got it? A They farmed from '63 to '67.

Q You say the reason you knew that you knew this man in '63 was because you knew how long they worked this farm before your father got it? A Yes sir.

Q You say it was in September of 1867 that your father bought that farm? A In '66.

Q You are positive about that? A Yes sir we got possession the first of March '67.

Q Did old man Sam Webber rent this place from your father? A No sir he rented it from Flemmings.

Q Did Sam Webber, the old man and the boys, come down here or leave that country in the fall of '65? A I think not.

Q Dont you remember that they did and that the old man came back by himself one time? A If my memory serve me, it was in '66, late in the summer, or early in the fall of '66.

Q What was in the fall of '66? A That they came down here--started away from there.

Q Who came then? A Sam Webber, the old man, and young Sam and Aaron.

Q What is your recollection as to how long they staid? A They came back I think in November or late in October.

Q Well which came back first? A Why I think the older Sam Webber came first.

Q How long do you think it was before you saw Sam Webber Jr. again? A Well, it was a short time, a month or so--I can't recollect that, it is a good while ago.

Q Who helped Sam Webber make a crop in '66? A Johnson Webber and the old man Sam made a crop in '66.

Q Who helped him? A Them two and the little boys I think worked too; Aaron did, I dont know but as Joe did too, I dont remember much about that.

Q Where was old man Sam Webber in July 1866? A That summer he raised that crop and worked part of the summer for my father on this farm.

Q Is it not a fact that in July of 1866 that Sam Webber Jr. came here for his father and that they left there for this country to build some houses? A That is not the way I remember it.

Q You have stated that it was a long time ago, do you think that you remember the dated absolutely? A Not to the day or month exactly, but that is my best recollection.

Q Are you testifying to the best of your recollection? A Yes sir.

Q Do you remember of Sam Webber Jr. bringing any hides to that country? A Yes sir.

Q When was that? A In the fall or beginning of the winter of '66 and '7 he brought some hides and furs.

Q To refresh your memory, was it not in March? A March when? Q '66? A No sir.

Q Upon what trip was that that he brought those hides? A He left and said he was coming down on a hunting trip.

Q Was that the trip when he left Kansas and when old Sam returned first that you spoke of a while ago? A Yes sir, that was the one, the same trip.

Q Do you remember of Sam Webber selling out a crop up here? A I dont.

Q Do you remember of them leaving there to come to the Territory to build some houses? A Yes sir.

- Q Was that after the time that he brought the hides there? A It was that trip that he left there for the purpose of building some houses that he brought the hides when he returned.
- Q Dont you remember of them leaving there to come to the Territory for the purpose of building houses? A Well that was wither in the spring or winter, in the latter part of February or early in March I have not given the matter any considerable study.
- Q How do you fix the dates you have given? A I remember them and then by the dates I have looked up.
- Q What dates have you looked up? A The purchasing of this land.
- Q Are you testifying from the date of the purchase of that land? A Father bought the place in the spring of '66 on condition and paid \$80 down, or traded cattle, as a forfeit, and in the fall he got some money and got full possession of the place; Webber had possession until the first of March, that is the Kansas law, from the first of March one year until the first of March the next year; they had possession of it until March first 1867.
- Q Mr. Walker, when you had occasion to investigate this matter, you had forgotten all about it practically hadn't you? A No sir, but it was something I had not thought much of.
- Q You couldn't have told on the moment what year Sam Webber left there could you? A I would have had to look at the dates.
- Q Then you are not testifying from your recollection, but from the dates that you have looked up since? A Part of it is from recollection and part of it is from looking up the dates.
- Q How long has it been since you thought of the time Sam Webber left that country before you made this investigation? A I was asked the question as to when they moved and I hadn't given the matter any thought till then.
- Q You didn't know then did you? A Yes sir after I thought it over.
- Q How long did it take you to think it over? A I dont exactly remember.
- Q Can't you give us some idea of it? A 2 or 3 weeks.
- Q Were you here when your father testified in this case? A Yes sir
- Q Did you know as much about it then as you do now? A No sir.
- Q How long was that from the time you had first been spoke to about the date? A I had not expected then to give testimony in this case and had not thought much about it.
- Q What were you doing here then? A I was subpoenaed in another case.
- Q You had been talking about this case then? A Not much.
- Q How much? A A word or two.
- Q And you were here all the time your father and mother were her and yet didn't testify in this case? A Yes sir.
- Q You went back to Kansas? A Yes sir.
- Q And came back here again to testify? A Yes sir.
- (By Hastings)
- Q You were subpoenaed by the Cherokee Nation? A Yes sir.
- (Continued by Stenographer J. O. Rosson)

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Tribes, he reported in full the above cause and that the foregoing is a true and complete transcript of his stenographic notes therein.

Chas. von Weise.

Subscribed and sworn to before me this the 9th of November, 1901.

T. B. Needles,

Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original.

Roy Palmer

Subscribed and sworn to before me this the 14th day of August, 1902.

Grace E. Jones
Notary Public.

Before Commissioner Breckinridge, at Tahlequah, I.T., Supplemental C.F.D.-350, Joe Ross.

(By Stenographer: This following testimony was originally taken down by stenographer J.O. Rosson, and afterwards dictated by him to stenographer M.D. Green.)

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HENRY C. SHORT, being sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Henry C. Short.
 Q How old are you, Mr. Short? A 48.
 Q What is your post office? A Mound City.
 Q In the Cherokee Nation? A In Kansas.
 BY MR. HASTINGS:
 Q How long, Mr. Short, have you lived in and about Mound City, Kansas? A Well over since the spring of 1867.
 Q What was your father's name? A John Short.
 Q Were you living there in the years '66 and '67? A Yes sir.
 Q Were you living in town or in the country? A Living in the country.
 Q Do you know Douglas Walker that left the stand? A Yes sir.
 Q Did you know a colored man by the name of Sam Webber up there?
 A Yes sir.
 Q Do you know that young Sam Webber, his son? A Yes sir.
 Q Do you know Joe Ross? A Yes sir.
 Q This is the man there? (Pointing to the applicant.) A I wouldn't have known him unless he had been pointed to me. They always called him Joe; I don't remember about him being called Joe Ross up there.
 Q Have you talked to him? A Just spoke to him.
 Q Did he recognize you as being the man? A He recognized me as being Short by telling him who I was and where I was from; he claimed that he was one of the boys.
 Q Do you know Aaron Webber, a little duck-legged fellow? A Yes sir.
 Q Where did you live in the spring of '66? A In Lin County, on Elk Creek, in Kansas.
 Q Did you live on the same place in the fall of '66? A Yes sir.
 Q Did you live in the same house? A I lived in the same house now that I moved into in the fall of '66.
 Q Well now what time in the fall did you move into it? A Well now it was the last of October or the first of November, I won't say which; along about in them times I moved, that is my folks moved; of course I was small. I moved there after that from the west part of the place to the east part of the place.
 Q Do you know where Sam Webber was at that time? A They lived then at that time in the fall of '66 they lived on the place known as the Fleming place, adjoining farms of ours.
 Q Were they living there when you moved? A That fall?
 Q Yes sir? A They were living there then.
 Q I will ask you what is your best judgment as to the time they moved with their families and left that country? A Well I could not say just how, for I have got nothing to fix them dates. The best of my judgment they left there in February.
 Q February now of what year? A Of '67, I would say that, but now I ain't certain, I ain't got no opinion about what time they left.
 MR. SMITH: Now I move to strike out the testimony to that effect, because the witness says that is his opinion.
 Commissioner: We will take it for what it is worth and let the Commission pass on it.
 BY MR. HASTINGS:
 Q That is your best judgment? A Yes, sir.
 Q That is your best recollection? A (No response.)

Q You said I believe you knew they were there in the fall? A Yes sir, that is all I can state positively. I don't know how long they were there.

Q You know that by your move? A Yes sir, that is the one thing I have got you know.

Q Do you know Joe's sister, Chiora? A Yes sir, there was a girl there called Chiora, I supposed it was Joe's sister.

BY MR. SMITH:

Q Mr. Short, how old were you in '66? A About 13 years old, September 5, 1866.

Q Now when were you asked first as to the time when Sam Webber left that country? A When was I asked first.

Q Yes? A I think it was last Sunday.

Q Well you didn't know did you? A No, I don't know just what day he left there at all.

Q Did you have that opinion then? A Yes, I have the same opinion I got now; it was the best of my opinion they left in the spring; I got nothing to say they did or did not.

Q Where was Sam Webber, Jr., in February 1866? A I don't know.

Q Where was he in October, 1865? A He was on the Creek.

Q Did you see him? A Yes, he was there; he hadn't moved; he come down here and went back again in the fall; and the whole family was all there in the fall.

Q That was in the fall of 1865 was it? A Fall of 1866.

Q I am talking about 1865? A Well they was there too.

Q Did you see him? A Yes, of course they was there.

Q Of course, well how do you know, did you see him? A Yes I saw him.

Q Where did you see Sam Webber in the fall of 1865? A Oh I don't know; he worked some for us.

Q Did he work for you in the fall of 1865? A Worked for my grandfather some.

Q That young Sam Webber? A Yes, sir.

Q You say you knew young Sam Webber, the younger of the two?

A Yes, sir; I knowed young Sam and old Sam too.

Q Did you know young Sam Webber, called Sam Webber, Jr.? A Yes sir, of course it has been a long time from the time I saw him, from the time he left there until I come down here; saw him the first time as soon as I moved there.

Q What did you say about his being a boy? A I suppose he was a young man, I couldn't say as to that.

Q What about Joe Ross, was he a boy? A Yes sir, Joe was younger than me; I am not mistaken? A Wasn't much difference in the ages; but I think he was younger than me.

Q Now is it not a fact that Sam Webber and his father old Sam Webber and Aaron Webber came to the Cherokee Nation in the fall of 1865?

A I think not, I don't think they did. They was there in 1865 but they was going and coming all the time; they come down in 1866 and located.

Q They came in 1866 and located? A Yes sir, but they come back and got their family.

Q Now you know only that they were there in 1866? A I know they were there in '66.

Q You don't know what time in '66 they were there? A They were there before '66.

Q Well I am talking about '66 were they there in the spring of '66?

A I couldn't say that time of '66 year; I think they were there all the time.

Q You don't know whether they were there all the time in 1865?

A No sir, I couldn't say they was.

Q Do you remember Sam Webber Sr. and Sam Webber Jr. and Aaron Webber coming down to the Cherokee Nation at any time? A They come down in the summer of '66 I think, directly after crops was made; they come down here and they went back together back up there in the fall.

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- Q Well did they ever come back together? A I don't know whether they did or not; Aaron didn't come back I don't think.
- Q What about Sam? Did he come down with his father? A Yes sir, I don't know whether Aaron came back or not; I know Sam and the old man came back and got the family.
- Q Do you know that they came back together? A Yes, I am pretty sure that they came back, I know I saw them afterwards.
- Q Do you remember of Sam Webber Jr. ever bringing any hides into the country? A No sir, I don't remember; I remember Sam telling me he had his cabin up.
- Q When did he tell you he had his cabin up? A In the fall of '66.
- Q He had been down here in the fall of 1866 and had built a cabin? A Yes sir, he told me he had his cabin built.
- Q And now that final move when they took all the people out you think was in what time? I don't know, but it runs in my mind as February or March; I won't say anything about that.
- Q What year? A '67.
- Q You say you won't say anything about that? A I don't know whether it was or not.
- Q You don't know whether it was or not? A No sir, that is a fact; but it runs in my mind it was.
- Q Where was Sam Webber during the winter of 1866 and '67, the winter that commences with December, 1866 and ends with February 1867? A I think he was there.
- Q Well, did you see him there? A Yes, I think he was there pretty much all the time.
- Q Well do you know it? A I got no way to fix it; that's my opinion he was there.
- Q You can't state it positively that he was or was not? A I know most of them was there and I believe he was too.
- Q You can't state that positively? A No sir, not unless I got something to fix the date.
- Q You won't say that? A No sir.
- Q Now can you remember about Sam Webber coming up there in the spring of 1866 and bringing some beef hides? A No sir, I can't remember; of course that date is a long time ago; now I have got these things fixed in my head that was in the fall of '66 I was moving from one farm to the other, and that was in the fall.
- Q You didn't go off of that farm? A No sir, just moved from the west to the east side.
- Q And you were a boy about 15 years old? A Yes sir.
- Q What is there in that to fix the date in your mind it was in 1866 any more than 1865 you moved? A I know we moved from the things that occurred; the death in the family of a young man that was there; I know it was '66.
- Q How about that now; about the deaths in the family? A There was a young man died in the family in '69, 3 years after we moved there it must have been from the things that he did when we moved from one house, but he didn't move in his house at all.
- Q You don't seem to be positive about any of these dates you give? A Why I do, when the family moved over, remember that fact.
- Q I mean about Webber's movements? A They was all there in the fall of '66; they was all there in October or November one of the two months, because we moved then.
- BY MR. HAWKINS.
- Q Now you never missed them up there in 1865 did you? A No sir.
- MR. SMITH: I object to that; it is not competent whether he missed them or not.
- Q Did you ever miss them up until the summer of 1867? A No sir, I have no recollection of them leaving there until that.
- Q That is your first recollection of them leaving? A Yes, sir.
- Mary A. Hicks, being sworn and examined by Commissioner Brackinridge, testified as follows:

Joe Ross (sup'1) 2

Q Give me your name, Madam? A Mary A. Hicks is the way I sign my name.

Q How old are you? A If I live to the first of next month I will be 67 years old.

Q What is your post office? A Hunter.

Q Is that in Kansas? A Yes sir.

BY MR. HASTINGS:

Q How far do you live from Mound City, Kansas, Mrs. Hicks? A I live 3 miles.

Q How long have you lived in that neighborhood? A Ever since the spring of 1864.

Q Were you living there then after the war? A Living there in the time of the war.

Q Do you know Mr. Walker, Douglass Walker, that has been on the stand? A Yes sir.

Q Do you know Mr. Short that left the stand here? A Yes sir.

Q Mrs. Hicks, did you know of a man up there by the name of Sam Webber? A Yes sir.

Q How far did you live from him just after the war? A Well I think it was about 275 steps; they used water out of my well.

Q Did you know his son, young Sam Webber? A Yes sir.

Q Well did you know a little short one called Aaron Webber? A Yes sir.

Q Did you know a boy called Joe Ross? A Yes sir.

Q Have you seen any of these parties since you have been here this time? A Why I met Joe Ross down there; he said he knew me and come up and shook hands with me and I met Sam Webber.

Q I will ask you to look if this is the same parties now? A Well I tell you Ross don't favor himself so much, but Joe he is just like his father and I knowed him because he is just like his father; well old uncle Sam was older than Sam is of course.

Q I will ask you if you had any deaths in your own family in the fall of '66? A Yes sir.

Q What was the date of it? A The date of the death?

Q Yes, madam? A Well it was in October.

Q Did you make any record of it in your Bible? A Yes sir.

Q Is this your Bible? A I reckon it is; if you will let me look I will tell you.

Q Look at it and see if this is your Bible? I think it is, but I can't read it, I haven't got my specs.

Q You haven't got your specs? A No sir.

Q Well of the family record here of births and deaths appear this: "Franklin Hicks, was born November 7, 1864." A Yes sir.

Q And under the column of deaths appears: "Died October 23, 1866" A That is correct.

Q Who was Franklin Hicks? A He was my son.

Q Do you know where Sam Webber was when your son Franklin died?

A No sir, I could not tell you.

Q Don't know? A No I don't; you mean this Sam?

Q That man? A Oh the old gentleman; he lived up there by me I think; I am not positively he lived there then.

Q Do you know where his wife was? A His wife died there.

Q Well do you know whether she was dead at the date of your son's death? A Yes sir, she died I think before he died; there was an old lady, they called her old aunt Rhoda, living.

Q She was living? A Yes, sir.

Q Was she a member of this family? A Yes sir, she lived there with them.

Q Well do you know whether she was there during the sickness of your child? A Yes sir, she set up with me several times, and if it was a bad night and she was up some in she would come and sit with me.

Q Did you know a sister of Joe's called Chloey? A Yes, sir.

Q Now I would like to have your best judgment Mrs. Hicks as to the time Old Sam Webber moved with his family and children from that place? A -

MR. SMITH: The applicant objects to the witness giving her opinion as to the time when this sickness took place, because it is not the subject of their expert or opinion evidence.

COMMISSION: I understand the question to be her best recollection.

A It has been a long time you know.

Q Well, answer the question? A About his being there?

Q I want to know, the question is, what is your best recollection as to the time Sam Webber and his family, when he left Kansas with his family? A -

OBJECTIONED to by applicant.

A Well my best recollection was that, I would not be positive of course, but I think it was in February or March, of or the other. The best of my recollection, because the old lady, old aunt Rhoda and whole Cy, that was her husband, they both was old and feeble and I think old uncle Sam stayed there on that account more than anything as long as he did.

Q Well now that would be February of what year? A It would be '67 wouldn't it?

Q You lived then about 175 yards from them? A Yes sir, I could hear them sing over there and hear them laugh and talk to my house.

Q On whose place were they living? A Well they was living on Mr. Walker's place then.

Q He had recently purchased it? A Yes sir.

Q Do you remember who he purchased it off? A I think it was a man by the name of Fleming; I think it was Flemings owned it.

BY MR. SMITH:

Q About how long, Mrs. Hicks, had Mr. Walker owned this place at the time these people lived there? A Well I couldn't answer that question.

Q Well you could tell whether it had been a few months or whether it had been a year or two? A It was, I suppose it may be quite a while; I couldn't tell you.

Q You remember that Mr. Walker owned a place there? A Of course I know he had charge of the land; I think Mr. Walker bought it from Mr. Fleming if I aint mistaken.

Q And you know these Webbers were living on the Walker place?

A Yes, sir.

Q Well what is your best recollection as to how long Mr. Walker had owned that place? A I don't know; I won't pretend to say anything, I don't know; I don't want to meddle with, I didn't come down here to criticize or anything about it; I want to tell the truth as far as I know.

Q Where was young Sam Webber in December, 1865, and up until January or February of 1866? A I could not tell you where he was, I think Sam worked out some around; I couldn't tell you whether he was at home all the time or not; I could not tell you.

Q Where was young Sam Webber at the time your child died? A I couldn't tell you that; This one.

A Yes? A I don't know.

Q He was not there was he? A I don't know, I couldn't say as to that.

Q Do you remember old man Sam Webber and young Sam Webber and Andy Webber and others leaving; Aaron Webber and others leaving that community in 1866 and coming down to the Cherokee Nation? A I recollect only Sam coming down here, I don't know, I won't be positive, I guess though it was in '66.

Q Well about how long was it ago, your best recollection, before this date in the fall that you have spoken of? A I don't know.

Q Don't know? A No I don't; but I recollect about it, he brought me back spice wood and sassafras root.

Q Do you remember young Sam bringing some hives in to the community? A No, sir, I didn't change my mind with anything like that.

Joe Ross (sup'1) 10

Q Well now give me some idea, Mrs. Hicks, about the time old man Sam Webber started off on this trip to the Cherokee Nation in 1866 that you testified about? A Why I don't know; he come in the fall I reckon.

Q You don't know whether it was fall, summer or spring? A No sir, I don't.

Q Well how is it you have no better recollection of this very time that you mention he come when you have of the first time? A I know he was there when that child of mine died.

Q And you don't know how long after that? A No; they went along the latter part of the winter, but I don't know what time; I think though it was in February or March.

Q You couldn't be positive whether it was February or after Christmas could you? A I don't think it was before Christmas.

Q You don't think that was? A No I can't, for several facts.

Q You can't state positively whether it was before or after Christmas, you can't swear it? A I wouldn't want to swear it either way.

Q Where did you move from to this place that you live? A Where did I move from?

Q How long have you been living at this place now where you lived when your child died? A I have been living on the place ever since the spring of '57.

Q About how long did you remain on the place? A I stay there yet, when I am at home; my husband is dead.

Q Do you know how many trips Sam Webber made to the Cherokee Nation before this time that he came away from there the last time? A No sir, I don't.

Q You know of his coming one time? A I know him and his father and I think Aaron, and I don't know whether Joe was along or not.

Q Well is this Joe? A Well of course, oh that one, Joe Webber that one sitting there?

Q Yes? A I think it is.

Q Which one of them don't look familiar? A That one, he was nothing but a boy when I knew him.

Q Which one, the right one here, the black one? A Yes sir.

Q What is his name? A Joe we always called him.

Q And what is this man right here? A Sam, that is the way we always called him.

Q You think that is the man you know up there in Kansas? A This Joe? A I don't know, he says it is; he was nothing but a boy when I saw him.

Q You don't recognize him then? A Hardly, I wouldn't know; he says he is the man; I used to think he was a very good boy when they lived there, but then he has grown out of my knowledge.

Q You don't know where the old man Sam Webber was in July '66 do you? A No sir.

Q You remember anything about young Sam Webber coming for the old man and the family in July 1866? A Well he might have come after them but they didn't come down here in July.

Q You don't know when they did come? A Why I think they come some time in the latter part of the winter, but I say I would not be certain what month it was, in February or March.

Q You won't be certain it was either of them? A I say they left, I was there and saw them start.

Q You would be certain it was either February or March? A I think they did.

Q You think so? A Yes sir.

BY MR. HASTINGS:

Q I was going to ask you if you knew about young Sam Webber marrying? A They said he married; I didn't see it done.

Q Did you hear of his marrying up there? A Yes sir.

Q Was that before or after he left? A It was before they left.

JANE SPEARS, being sworn and examined by Commissioner Brock-
bridge, testified as follows:

- Q Give me your full name? A Jane Spears.
Q How old are you? A I am 46 years old.
Q What is your post office? A Mound City.
Q In the State of Kansas? A Yes sir, Mound City, Kansas.
BY MR. HASTINGS:
Q Mrs. Spears, was Mrs. Hicks who left the stand your mother?
A Yes sir.
Q How long have you lived in and about Mound City, Kansas, I mean
in the neighborhood? A Well I came there when I was about a year old.
Q And have you lived there ever since? A Yes sir, well since I
have been married I have just moved one mile north.
Q You moved a mile north of your mother? A Yes sir.
Q Do you know Douglass Walker? A Yes sir.
Q Do you know Henry G. Short? A Yes sir.
Q Do you remember at an early date just after the war some colored
people that lived up there; one of them by the name of Sam Webber?
A Yes sir.
Q Do you remember his son Sam? A Yes sir, I know him.
Q Were you living with your mother at that time? A Yes sir.
Q Did you know Joe, that was living with them, Joe Ross? A Yes sir.
Q Have you seen any of these parties since you have been here this
time? A I met them to-day.
Q Talked with them some? A Well I just spoke to Joe; Sam I did
not.
Q Did he recognize you? A Well he let on as though he did; I don't
know that he did; I suppose he heard we were here.
Q I will ask you if this is your mother's family Bible? A Yes sir.
Q That is the family record of the births and deaths? A Yes sir.
Q I will ask you if you had a brother by the name of Franklin Hicks?
A Yes sir.
Q Do you remember the date of his death? A Yes sir, October 23,
1866.
Q I will ask you if you know where the Webber family was living at
the time he died? A Yes sir, they were living there.
Q About how far from your mother's? A About 175 steps I suppose,
in a cabin.
Q Short distance? A Yes sir.
Q Did you know Aaron Webber, a little short legged duck legged
fellow? A Yes sir.
Q I would like to know from you Mrs. Spears your best recollection
as to the time old man Sam Webber left that country permanently with
his family? A -
BY MR. SMITH: The counsel for the applicant objects to that
question, because it is incompetent and calls for the opinion
of the witness.
COMMISSIONER: The counsel for the applicant has put a number of
questions in the same form and asked as to their best recollec-
tion that exists; it is entirely competent to give the best re-
collection and belief in regard to the facts.
Q My best recollection is that it was in the spring of '67, either
February or March.
Q Did you know whether or not young Sam Webber married up there?
A Yes sir.
Q Did you know whether that was before or after they left there?
A That was before they left there.
BY MR. SMITH:
Q Mrs. Spears, did you know Sam Webber, Sr., leaving that country
and coming to the Cherokee Nation, or leaving that country for the
Cherokee Nation before the time you mention? A He came in the fall
I think, or summer sometime and got a claim I think.

Before Commissioner Breckinridge, at Tahlequah, I.T., Supplemental C.F.D.-359, Joe Ross.

(By Stenographer: This following testimony was originally taken down by stenographer J.G. Roosen, and afterwards dictated by him to stenographer M.D. Green.)

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HENRY C. SHORT, being sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Henry C. Short.
 Q How old are you, Mr. Short? A 49.
 Q What is your post office? A Mound City.
 Q In the Cherokee Nation? A In Kansas.
 BY MR. HASTINGS:
 Q How long, Mr. Short, have you lived in and about Mound City, Kansas? A Well ever since the spring of 1887.
 Q What was your father's name? A John Short.
 Q Were you living there in the years '86 and '87? A Yes sir.
 Q Were you living in town or in the country? A Living in the country.
 Q Do you know Douglas Walker that left the stand? A Yes sir.
 Q Did you know a colored man by the name of Sam Webber up there? A Yes sir.
 Q Do you know that young Sam Weber, his son? A Yes sir.
 Q Do you know Joe Ross? A Yes sir.
 Q This is the man there? (Pointing to the applicant.) A I wouldn't have known him unless he had been pointed to me. They always called him Joe; I don't remember about him being called Joe Ross up there.
 Q Have you talked to him? A Just spoke to him.
 Q Did he recognize you as being the man? A He recognized me as being Short by telling him who I was and where I was from; he claimed that he was one of the boys.
 Q Do you know Aaron Webber, a little duck legged fellow? A Yes sir.
 Q Where did you live in the spring of '86? A In Linh County, on Elk Creek, in Kansas.
 Q Did you live on the same place in the fall of '86? A Yes sir.
 Q Did you live in the same house? A I lived in the same house now that I moved into in the fall of '86.
 Q Well now what time in the fall did you move into it? A Well now it was the last of October or the first of November, I won't say which; along about in them times I moved, that is my folks moved; of course I was small, I moved there after that from the west part of the place to the east part of the place.
 Q Do you know where Sam Webber was at that time? A They lived then at that time in the fall of '86 they lived on the place known as the Fleming place, adjoining farms of ours.
 Q Were they living there when you moved? A That fall?
 Q Yes sir? A They were living there then.
 Q I will ask you what is your best judgment as to the time they moved with their families and left that country? A Well I could not say just how, for I have got nothing to fix them dates. The best of my judgment they left there in February.
 Q February now of what year? A Of '87. I would say that, but now I ain't certain, I ain't got no opinion about what time they left.
 MR. SMITH: Now I move to strike out the testimony to that effect, because the witness says that is his opinion.
 Commissioner: We will take it for what it is worth and let the Commission pass on it.
 BY MR. HASTINGS:
 Q That is your best judgment? A Yes, sir.
 Q That is your best recollection? A (No response.)

Joe Ross (sup'l) 6

Q You said I believe you know they were there in the fall? A Yes sir, that is all I can state positively. I don't know how long they were there.

Q You know that by your move? A Yes sir, that is the one thing I have got you know.

Q Do you know Joe's sister, Chloa? A Yes sir, there was a girl there called Chloa, I supposed it was Joe's sister.

BY MR. SMITH:

Q Mr. Short, how old were you in '66? A About 15 years old, September 6, 1866.

Q Now when were you asked first as to the time when Sam Webber left that country? A When was I asked first.

Q Yes? A I think it was last Sunday.

Q Well you didn't know did you? A No, I don't know what day he left there at all.

Q Did you have that opinion then? A Yes, I have the same opinion I got now; it was the best of my opinion they left in the spring; I got nothing to say they did or did not.

Q Where was Sam Webber, Jr., in February 1866? A I don't know.

Q Where was he in October, 1866? A He was on the Creek.

Q Did you see him? A Yes, he was there; he hadn't moved; he come down here and went back again in the fall; and the whole family was all there in the fall.

Q That was in the fall of 1865 was it? A Fall of 1866.

Q I am talking about 1865? A Well they was there too.

Q Did you see him? A Yes, of course they was there.

Q Of course, well how do you know, did you see him? A Yes I saw him.

Q Where did you see Sam Webber in the fall of 1865? A Oh I don't know; he worked some for us.

Q Did he work for you in the fall of 1865? A Worked for my grandfather some.

Q That young Sam Webber? A Yes, sir.

Q You say you met young Sam Webber, the younger of the two? A Yes, sir; I knowed young Sam and old Sam too.

Q Did you know young Sam Webber, called Sam Webber, Jr.? A Yes sir, of course it has been a long time from the time I saw him, from the time he left there until I come down here; saw him the first time as soon as I moved there.

Q What did you say about his being a boy? A I suppose he was a young man, I couldn't say as to that.

Q What about Joe Ross, was he a boy? A Yes sir, Joe was younger than me if I am not mistaken? A Wasn't much difference in the ages; but I think he was younger than me.

Q Now is it not a fact that Sam Webber and his father old Sam Webber and Aaron Webber came to the Cherokee Nation in the fall of 1865? A I think not, I don't think they did; they was there in 1865 but they was going and coming all the time; they come down in 1866 and located.

Q They came in 1866 and located? A Yes sir, but they come back and got their family.

Q Now you know only that they were there in 1865? A I know they were there in '66.

Q You don't know what time in '65 they were there? A They were there before '66.

Q Well I am talking about '65 were they there in the spring of '65? A I couldn't say what time of the year; I think they were there all the time.

Q You don't know whether they were there all the time in 1865 or not? A No sir, I couldn't say they was.

Q Do you remember Sam Webber Sr. and Sam Webber Jr. and Aaron Webber coming down to the Cherokee Nation at any time? A They come down in the summer of '66 I think, directly after crops was made; they come down here and they went back together back up there in the fall.

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Joe Ross (sup'1) 7.

Q Well did they ever come back together? A I don't know whether they did or not; Aaron didn't come back I don't think.

Q What about Sam Jr., did he come down with his father? A Yes sir, I don't know whether Aaron came back or not; I know Sam and the old man came back and got the family.

Q Do you know that they came back together? A Yes, I am pretty sure that they came back; I know I saw them afterwards.

Q Do you remember of Sam Webber Jr. ever bringing any hides into the country? A No sir, I don't remember; I remember Sam telling me he had his cabin up.

Q When did he tell you he had his cabin up? A In the fall of '66.

Q He had been down here in the fall of 1865 and had built a cabin? A Yes sir, he told me he had his cabin built.

Q And now that final move when they took all the people out you think was in what time? I don't know, but it runs in my mind as February or March; I won't say anything about that.

Q What year? A '67.

Q You say you won't say anything about that? A I don't know whether it was or not.

Q You don't know whether it was or not? A No sir, that is a fact; but it runs in my mind it was.

Q There was Sam Webber during the winter of 1865 and '66, the winter that commences with December, 1865 and ends with February 1866? A I think he was there.

Q Well, did you see him there? A Yes, I think he was there pretty much all the time.

Q Well do you know it? A I got no way to fix it; that's my opinion he was there.

Q You can't state it positively that he was or was not? A I know most of them were there and I believe he was too.

Q You can't state that positively? A No sir, not unless I got something to fix the date.

Q You won't say that? A No sir.

Q Now can you remember about Sam Webber coming up there in the spring of 1866 and bringing some best hides? A No sir, I can't remember; of course then dates is a long time ago; now I have got these things fixed in my head that was in the fall of '66 I was moving from one farm to the other and that was in the fall.

Q You didn't go off of that farm? A No sir, just moved from the west to the east side.

Q And you were a boy about 13 years old? A Yes sir.

Q What is there in that to fix the date in your mind it was in 1866 any more than 1865 you moved? A I know we moved from the things that occurred; the death in the family of a young man that was there; I know it was '66.

Q How about that now, about the deaths in the family? A There was a young man died in the family in '66, 5 years after we moved there it must have been from the things that he did when we moved from one house, but he didn't move in his house at all.

Q You don't seem to be positive about any of these dates you give?

A Why I do, when the family moved every remember that fact.

Q I mean about Webber's movements? A They was all there in the fall of '66, they was all there in October or November out of the two months, because we moved then.

BY MR. BATHMAN:

Q Now you never missed them up there in 1866 did you? A No sir.

MR. SMITH: I object to that; it is not competent whether he missed them or not.

Q Did you ever miss them up until the summer of 1867? A No sir, I have no recollection of them leaving there until that.

Q That is your first recollection of them leaving? A Yes, sir.

Mary A. Hicks, being examined and examined by Commissioner Brackinridge, testified as follows:

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Q Give me your name, Madam? A Mary M. Hicks is the way I sign my name.

Q How old are you? A If I live to the first of next month I will be 67 years old.

Q What is your post office? A Benton.

Q Is that in Kansas? A Yes sir.

BY MR. HARRIS:

Q How far do you live from Topeka City, Kansas, Mrs. Hicks? A I live 5 miles.

Q How long have you lived in that neighborhood? A Ever since the spring of 1857.

Q Were you living there then after the war? A Living there in the time of the war.

Q Do you know Mr. Walker, Douglass Walker, that has been on the stand? A Yes sir.

Q Do you know Mr. Short that left the stand here? A Yes sir.

Q Mrs. Hicks, did you know of a son up there by the name of Sam Webber? A Yes sir.

Q How far did you live from him just after the war? A Well I think it was about 175 steps; they used water out of my well.

Q Did you know his son, young Sam Webber? A Yes sir.

Q Well did you know a little short one called Aaron Webber? A Yes sir.

Q Did you know a boy called Joe Ross? A Yes sir.

Q Have you seen any of these parties since you have been here this time? A Why I met Joe Ross down there; he said he knew me and come up and shook hands with me and I saw Sam Webber.

Q I will ask you to look if this is the same parties now? A Well I tell you Ross don't favor himself so much, but Joe he is just like his father and I knowed him because he is just like his father; well old uncle Sam was older than Sam is of course.

Q I will ask you if you had any deaths in your own family in the fall of '66? A Yes sir.

Q What was the date of it? A The date of the death?

Q Yes, madam? A Well it was in October.

Q Did you make any record of it in your Bible? A Yes sir.

Q Is this your Bible? A I reckon it is; if you will let me look I will tell you.

Q Look at it and see if this is your Bible? I think it is, but I can't read it, I haven't got my specs.

Q You haven't got your specs? A No sir.

Q Well of this family record here of births and deaths appear this: "Franklin Hicks, was born November 7, 1864." A Yes sir.

Q And under the column of deaths appears: "Died October 23, 1866" A That is correct.

Q Who was Franklin Hicks? A He was my son.

Q Do you know where Sam Webber was when your son Franklin died?

A No sir, I could not tell you.

Q Don't know? A No I don't; you mean this Sam?

Q That man? A Oh the old gentleman; he lived up there by me I think; I am not positively he lived there then.

Q Do you know where his wife was? A His wife died there.

Q Well do you know whether she was dead at the date of your son's death? A Yes sir, she died I think before he died; there was an old lady, they called her old aunt Rhoda, living.

Q She was living? A Yes, sir.

Q Was she a member of this family? A Yes sir, she lived there with them.

Q Well do you know whether she was there during the sickness of your child? A Yes sir, she sat up with me several time, and if it was a bad night and she saw it was coming in she would come and sit with me.

Q Did you know a sister of Joe's called Unora? A Yes, sir.

Q Now I would like to have your best judgment Mrs. Hicks as to the time Old Sam Webber moved with his family and children from that place? A -

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MR. SMITH: The applicant objects to the witness giving her opinion as to the time when this sickness took place, because it is not the subject of their expert or opinion evidence.

COMMISSIONER: I understand the question to be her best recollection.

A It has been a long time you know.

Q Well, answer the question? A About him being there?

Q I want to know, the question is, what is your best recollection as to the time Sam Webber and his family, when he left Kansas with his family? A -

OBJECTIONED to by applicant.

A Well my best recollection was that, I would not be positive of course, but I think it was in February or March, of or the other. The best of my recollection, because the old lady, old aunt Rhoda and uncle Cy, that was her husband, they both was old and feeble, and I think old uncle Sam stayed there on that account more than anything as long as he did.

Q Well now that would be February of what year? A It would be '67 wouldn't it?

Q You lived then about 17 1/2 yards from them? A Yes sir, I could hear them sing over there and hear them laugh and talk to my house.

Q On whose place were they living? A Well they was living on Mr. Walker's place then.

Q He had recently purchased it? A Yes sir.

Q Do you remember who he purchased it off? A I think it was a man by the name of Fleming; I think it was Flemings owned it.

BY MR. SMITH:

Q About how long, Mrs. Hicks, had Mr. Walker owned this place at the time these people lived there? A Well I couldn't answer that question.

Q Well you could tell whether it had been a few months or whether it had been a year or two? A It was, I suppose it may be quite a while; I couldn't tell you.

Q You remember that Mr. Walker owned a place there? A Of course I know he had charge of the land; I think Mr. Walker bought it from Mr. Fleming if I ain't mistaken.

Q And you know these Webbers were living on the Walker place?

A Yes, sir.

Q Well what is your best recollection as to how long Mr. Walker had owned that place? A I don't know; I won't pretend to say anything I don't know; I don't want to meddle with, I didn't come down here to criticize or anything about it; I want to tell the truth as far as I know.

Q Where was young Sam Webber in December, 1865, and up until January or February of 1866? A I could not tell you where he was, I think Sam worked out some around; I couldn't tell you whether he was at home all the time or not; I could not tell you.

Q Where was young Sam Webber at the time your child died? A I couldn't tell you that; This one.

A Yes? A I don't know.

Q He was not there was he? A I don't know, I couldn't say as to that.

Q Do you remember old man Sam Webber and young Sam Webber and Andy Webber and others leaving that community in 1865 and coming down to the Cherokee Nation? A I recollect only Sam coming down here, I don't know, I won't be positive, I guess through it was in '66.

Q Well about how long was it ago, your best recollection, before this date in the fall that you have spoken of? A I don't know.

Q Don't know? A No I don't; but I recollect about it, he brought me back spiced wood and chickens roasts.

Q Do you remember young Sam bringing some hides in to the community?

A No, sir, I didn't charge my mind with anything like that.

Q Well now give me some idea, Mrs. Hicks, about the time old man Sam Webber started off on this trip to the Cherokee Nation in 1866 that you testified about? A Why I don't know, he came in the fall I reckon.

Q You don't know whether it was fall, summer or spring? A No sir, I don't.

Q Well how is it you have no better recollection of this very time that you mention he came than you have of the first time? A I know he was there when that child of mine died.

Q And you don't know how long after that? A No, they went along the latter part of the winter, but I don't know what time I think though it was in February or March.

Q You wouldn't be positive whether it was February or after Christmas could you? A I don't think it was before Christmas.

Q You don't think that was? A No I can't, for several facts.

Q You can't state positively whether it was before or after Christmas, you can't swear it? A I wouldn't want to swear it either way.

Q Where did you move from to this place that you live? A Where did I move from?

Q How long have you been living at this place now where you lived when your child died? A I have been living on the place ever since the spring of '57.

Q About how long did you remain on the place? A I stay there yet, when I am at home; my husband is dead.

Q Do you know how many trips Sam Webber made to the Cherokee Nation before this time that he came away from there the last time? A No sir, I don't.

Q You know of his coming one time? A I know him and his father and I think Aaron, and I don't know whether Joe was along or not.

Q Well is this Joe? A Well of course, of that one, Joe Webber that one sitting there?

Q Yes? A I think it is.

Q Which one of them don't look familiar? A That one, he was nothing but a boy when I knew him.

Q Which one, the right one here, the black one? A Yes sir.

Q What is his name? A Joe we always called him.

Q And what is this man right here? A Sam, that is the way we always called him.

Q You think that is the man you knew up there in Kansas? A This Joe? A I don't know, he says it is; he was nothing but a boy when I saw him.

Q You don't recognize him then? A Hardly, I wouldn't know; he says he is the man I used to think he was a very good boy when they lived there, but then he has grown out of my knowledge.

Q You don't know where the old man Sam Webber was in July '66 do you? A No sir.

Q You remember anything about young Sam Webber coming for the old man and the family in July 1866? A Well he might have come after them but they didn't come down here in July.

Q You don't know when they did come? A Why I think they come some time in the latter part of the winter, but I say I would not be certain what month it was, in February or March.

Q You won't be certain it was either of them? A I say they left, I was there and saw them start.

Q But would be certain it was either February or March? A I think they did.

Q You think so? A Yes sir.

Q I was going to ask you if you knew about young Sam Webber marrying? A Yes, said he married, I didn't see it down.

Q Did you know of his marrying up there? A Yes sir.

Q Was that before or after he left? A It was before they left.

JANE SPEARS, being sworn and examined by Commissioner Brook-
inridge, testified as follows:

Q Give me your full name? A Jane Spears.

Q How old are you? A I am 45 years old.

Q What is your post office? A Mount City.

Q In the State of Kansas? A Yes sir, Mount City, Kansas.

BY MR. HASTINGS:

Q Mrs. Spears, was Mrs. Hicks who left the stand your mother?

A Yes sir.

Q How long have you lived in and about Mount City, Kansas, I mean
in the neighborhood? A Well I came there when I was about a year old.

Q And have you lived there ever since? A Yes sir, well since I
have been married I have just moved one mile north.

Q You moved a mile north of your mother? A Yes sir.

Q Do you know Douglass Walker? A Yes sir.

Q Do you know Henry C. Short? A Yes sir.

Q Do you remember at an early date just after the war some colored
people that lived up there; one of them by the name of Sam Webber?

A Yes sir.

Q Do you remember his son Sam? A Yes sir, I know him.

Q Were you living with your mother at that time? A Yes sir.

Q Did you know Joe, that was living with them, Joe Ross? A Yes sir.

Q Have you seen any of these parties since you have been here this
time? A I met them to-day.

Q Talked with them some? A Well I just spoke to Joe; Sam I did
not.

Q Did he recognize you? A Well he let on as though he did; I don't
know that he did; I suppose he heard we were here.

Q I will ask you if this is your mother's family Bible? A Yes sir.

Q That is the family record of the births and deaths? A Yes sir.

Q I will ask you if you had a brother by the name of Franklin Hicks?

A Yes sir.

Q Do you remember the date of his death? A Yes sir, October 23,
1866.

Q I will ask you if you know where the Webber family was living at
the time he died? A Yes sir, they were living there.

Q About how far from your mother's? A About 175 steps I suppose,
in a cabin.

Q Short distance? A Yes sir.

Q Did you know Aaron Webber, a little short legged duck legged
fellow? A Yes sir.

Q I would like to know from you Mrs. Spears your best recollection
as to the time old man Sam Webber left that country permanently with
his family? A

BY MR. SMITH: The counsel for the applicant objects to that
question, because it is incompetent and calls for the opinion
of the witness.

COMMISSIONER: The counsel for the applicant has put a number of
questions in the same form and asked as to their best recollec-
tion that exists; it is entirely competent to give the best re-
collection and belief in regard to the facts.

Q My best recollection is that it was in the spring of '67, either
February or March.

Q Did you know whether or not young Sam Webber married up there?

A Yes sir.

Q Did you know whether that was before or after they left there?

A That was before they left there.

BY MR. SMITH:

Q Mrs. Spears, did you know Sam Webber, Sr., leaving that country
and coming to the Cherokee Nation, or leaving that country for the
Cherokee Nation before the time you mention? A He came in the fall
I think, or summer sometime and got a claim I think.

Q Fall of that year? A '55, and then came back.
Q Now do you remember young Sam Webber's coming back with reference to the time Sam Webber Sr. came, who came first when they returned from this trip looking for claims you speak of? A They came together.
Q You are sure of that? A Yes sir.
Q Where was Simon Webber, did he come back with them? A I don't remember very much about him.
Q You don't remember whether he did or not? A No, I wouldn't be positive whether he came with them or not, when they came after their claims.
Q Do you know when the elder Sam Webber made the first trip to the Cherokee Nation after the war? A Well it was in the fall of '56 I guess, about that time, either summer or fall.
Q Either summer or fall? A Yes sir, sometime during in the summer or fall.
Q Might not it have been the late spring? A No, it was not, because he made his crop there and then came afterwards.
Q Made a crop in '55? A '56.
Q What did he do with that crop? A I suppose he put it up here, disposed of it.
Q Do you know whether he sold it or not? A No, I don't know whether he sold it or not, I think they fed it to their stock before they left.
Q Where was Sam Webber Jr. in December 1865? A I don't know where he was at.
Q Where was he in January and February of '66? A January or February of '66, I can't say.
Q Where was he in July of '66? A I don't know where.
Q Do you have any recollection of Sam Webber Jr. coming there after his father in July '66? A No sir.
Q Do you have any recollection of Sam Webber coming there at any time with any hides, beef hides or any kind of hides? A No sir.
Q Where was old Sam Webber living in the year of 1865? A He was living there close to my mother's farm I speak of.
Q In 175 steps of you? A Yes sir.
Q And you don't remember of his coming there at any time off of a trip except the time he came back with his father? A He went to Fort Scott I guess, I never tried to keep any traces of his whereabouts.
Q Now what makes you think it was February or March of '66 that these people left there? A Well I have all reasons to believe that circumstances about it; well the old darkey had a cane patch and the darkey boys trapped on the land that winter.
Q These darkey boys? A The Webber boys.
Q Did what? A Trapped for game that winter on the patch of cane where we had left the seed on the cane.
Q That the winter that commences in December and ends in February, December, '66 and February of '67? A It was all in the winter of course.
Q Well the winter is pretty well over by the last day of January isn't it? A Not always it ain't.
Q Well the bigger part of it; two months is gone isn't it? A No sir, not in our country.
Q Now many months do you have in the winter there? A Some winters we have pretty hard and some winters we don't have so much.
Q So that as a matter of fact the fact that they trapped there on your place during the winter would not be itself lead you to believe that they didn't leave there until February or March? A Well it was along toward spring they left, that is the best of my knowledge.
Q Now is what was it you fix the date, you speak of your people there is that the way you fix the date, is that? A No sir, I fix it by memory, of course that is the way by the people, of this child's family, they were there then; that is, the family were, I don't re-

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member so much about the men; there was an old lady that moved down here with the men that sat up with my brother in his sickness.

Q Do you remember Sam Webber bringing you any sassafras and spice switch up there? A Yes sir.

Q When was that? A That was the first time they came down.

Q When was it? A That was in '66.

Q What month? A I don't know.

Q Can you state within two months of the time? A No I don't know as I could.

Q Can you remember that as well as you could the other time? A (No response).

Q You know that they were gone from there before the spring of '67, and it must have been in '66 they brought the sassafras? A Yes sir.

Q What was it, sassafras roots? A Yes sir.

Q That must have been in the spring? A I don't know.

Q Well they don't make sassafras in the fall? A We used it for tea

Q It was not in the spring at all Sam Webber brought the sassafras?

A No sir, it was not; he didn't bring it at all; the old gentleman brought it.

Q Well now as a matter of fact do you remember any one of these people being there at the time your brother was sick and died except the old woman Rhoda? A Well this family was there on the place; I don't remember them being there.

Q Well if they were you tell me who you saw except Rhoda the old woman? A Well I don't know as I remember. There was Johnson's wife, of course I don't just remember who was there, I was just a child then; there was a great many of the neighbors in, but I remember the old lady, sitting up with my brother at the time he was sick.

Q Now isn't it a fact that the old lady Rhoda is the only one you remember being there at the time? A No sir.

Q Now who else was there? A Chlora was there.

Q Well now name some other one, all you know that was there? A I don't know, I don't remember them, there was hardly any day but what they was there, some of them.

Q Well now what I want to know, who was there except this woman, Rhoda? A I don't know anything about that.

Q You don't know? A No sir.

Q How many trips did the Webbers make down here to this country, do you know? A They came once and got claims and came back and went again.

Q All you know of? A Yes sir.

Q If they made others you don't know it? A No sir, I don't know anything about any more trips they made.

Q Now when was this entry in this Bible, the date of your brother's death, made, was that made at the time? A Just when he died?

Q Yes? A I don't know as it was, I suppose about the time.

Q Well about when, do you know who wrote that? A I know who wrote that?

Q That is what I am talking about? A This was drawn off from another Bible.

Q You don't think that this entry, "Lizzie Bell Lewis, born September 1st, 1868" is in the same handwriting that this is do you?

A No sir.

Q You don't know that this is in the same handwriting? A No sir, it is not.

Q Now who wrote that date, October 23, 1866? A Park Nichols.

Q Well now can you tell me how nearly at the time of your brother's death that entry was made? A No sir, I could not.

BY MR. HASTINGS;

Q How long has this Bible been in your mother's possession? A I can't tell.

Q Has this entry been in here a long time to your knowledge? A Yes sir, it has been several years.

Q It was in there long before any investigation came up wasn't it?

A Yes sir.

BY MR. SMITH:

Q Didn't Sam Webber and his father come down here in '65? A If they did I never missed them from home.

Q If they came here you didn't miss them? A No sir.

MARY A HICKS, re-called for additional cross examination.

BY MR. SMITH:

Q Mrs. Hicks, when was the entry upon this Bible you have with regard to the date of the death of your child made with reference to his death? A Well I don't just remember when it was; it was not long.

Q Was it put there at or about the time he died? A Why it was not long after he died.

Q Well give us your best judgment as to how long? A Well he died that fall and I don't know just how long it was.

Q Well was it as much as a month? A I won't say sir.

Q You can give some idea? A Well I tell you now, I won't say anything when I don't know anything.

Q I thought probably you might know better than I do, as I know nothing about it? A If I knew when I set it down I would recollect it; I have had a good deal of trouble about it.

Q I don't want to cause you any trouble about it, but I would like to know, it is some importance in this case? A There was a young man working for us that set it down.

Q What was his name? A His name was Nichols.

Q Do you remember how long after your child died before Nichols went to work for you? A No sir.

Q Well when it was set down what was it set down from, your recollection? A Why I had a husband then and all of us recollected it, who wouldn't recollect it?

Q I am asking you how long it was before this entry was made, if you can tell me? A I don't know when.

Q Do you think it was as much as two years? A No sir.

Q It was not? A No sir, if I should guess at anything about it I should think it was along in the summer sometime, I should think now; afterwards this young man was breaking prairie and of course he broke it in the winter.

Q Was this the first place it was made where it was made here in this Bible? A Yes sir.

MR. SMITH: If the Court please, I want to show by the title page of the Bible that it was not published until in 1869.

COMMISSIONER: The title page has been examined and it shows that the edition of the Bible in evidence was published in Philadelphia in the year 1869.

BY MR. HASTINGS:

Q Do you remember, independent of the Bible, of the dates of your son's death? A Yes sir.

Q You didn't attempt to give distinctly when that entry was made in your Bible? A No sir.

Q You so stated? A Yes sir.

BY MR. SMITH: I object to that; it is leading.

BY MR. HASTINGS:

The Representatives of the Cherokee Nation ask that the testimony of Sam Webber, recalled, in the case of Jefferson Ross and others, Freedman D-873, be made a part of the record in this case.

COMMISSIONER: It is ordered that the testimony just taken be filed as supplemental testimony in Cherokee Freedmen Doubtful case 496, the same being the case of Chloa Grayson, and it will likewise be filed in Cherokee Freedmen Doubtful case 216, the case of Aaron Webber, and in Cherokee Freedmen doubtful case 360, the same being the case of Joe Ross.

It is further ordered that a set of all the testimony

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given by Sam Webber in Cherokee Freedman Doubtful case 872, the same being the case of Jefferson Ross, be filed in case Cherokee Freedman D-350, of Joe Ross, and in Cherokee Freedman D-496, of Chloa Grayson, and in Cherokee Freedman D-216, of Aaron Webber.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in this case, as dictated to him from the stenographic notes of JOHN C. Rosson, by said Rosson, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green.

Subscribed and sworn to before me this November 16th, 1901.

J. C. Starr,

Notary Public.

SEAL.

To be filed with _____

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 29th, 1901.

SUPPLEMENTAL TESTIMONY IN THE MATTER of the application of Joe Ross
C.F.D. 350.

Appearances:

W.W. Hastings, for the Cherokee Nation.
Mellotte & Smith for the applicants.

BY MR. HASTINGS: The Representatives of the Cherokee Nation ask that the testimony of Sam Webber, re-called, in the case of Jefferson Ross, and others, Freedmen D 872, be made a part of the record in this case.

COMMISSION - - - It is further ordered that a set of all the testimony given by Sam Webber in Cherokee Freedmen Doubtful case 972, the same being the case of Jefferson Ross be filed in the case Cherokee Freedman D 350, of Joe Ross, and in Cherokee Freedmen D 496, of Chlora Grayson and in Cherokee Freedmen D 216, of Aaron Webber.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 26, 1901.

In the matter of the application of Jefferson Ross for the
ment of himself and four children as Cherokee Freedmen.

Appearances:

Mellotte & Smith, attorneys for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

Sam Webber, being duly sworn by Commissioner Needles, testified as follows:

Mr. Smith: What is your name? A Sam Webber.

Q How old are you? A About 58.

Q Where do you live? A I live about two miles west of here.

Q How long have you lived in the Cherokee Nation? A I was born and raised here, and after the war came back.

Q Do you know this applicant, Jefferson Ross? A Yes, sir.

Q Were you acquainted with him before the war? A No, sir, I wasn't acquainted with him before the war.

Q When did you first know him? A I got acquainted with him just after the war.

Q Where? A Here in the Nation.

Q About what part of the Nation? A He came to my house there on Big Creek in the Nation.

Q What time? A Along in the spring of '67.

Q Do you know of your own knowledge when he first came back to the Territory after the war? A No, sir, I don't know of my own knowledge.

Q Do you know where he was living at the time he came to your house? A He had been working on Snow Creek he claimed and he was on his way hunting his sister.

Q Did you ever see after you saw him that time? A I put him on the trail down to his sister's and I never saw him for quite a little bit from that; when I saw him he was there on Lightning Creek.

Q Did you see him after that at his sister's? A I saw him then often and on for near about two years I guess.

Q Where? A There at Lightning Creek.

Q In the Cherokee Nation? A Yes, sir.
Q Was he a married or a single man at that time? A He was a single man to my knowledge.
Q Do you know where he is living now? A No, sir, I don't.
Mr. Hastings: You saw him around here for about two years?
A Yes, sir.
Q Then how long was it till you saw him again, Sam? A I remember after that of seeing him on Big Creek again.
Q How long after that? A Must have been six months of a year after that I met him again there.
Q You know where he was married? A No, sir, I can't tell you.
Q Was he married at that time? A If he was I didn't know it.
Q Did you know his wife? A No, sir, I don't know his wife.
Q Did you ever see his wife? A Not to know it was her.
Q Has this man ever kept house to your knowing? A When I saw him he was to his sister's.
Q What was her name? A Katie Thornton.
Q You never saw him in a separate, independent house, keeping house with his family? A No, sir, never did.
Q What is his occupation? A I can't tell you.
Q Did you ever see him making a crop anywhere? A I never saw him farming, I have seen him working for people around there.
Q He never made a crop to your knowledge? A No, sir, not to my knowledge.
Q Has he got any special occupation like a carpenter? A Not as I know of.
Q What is Katie Thornton's husband named? A Henry Thornton.
Q Was that her husband at that time? A Yes, sir.
Q With whom does this man stay now? A I don't know that.
Q You never saw him anywhere except around to his sister's? A That is all I have noticed him.
Q Did he have any children when you saw him? A I never saw them if he did.
Q You don't know where his family were, if he had any? A No, sir.

Sam Webber, re-called, testified as follows:

Mr. Hastings: Mr. Webber, when were you first married? A When I first married, I married just a short while after the war, I don't remember what year.
Q Before you came down here? A After I came down here.
Q Well, about how many years after you came down here? A It wasn't a year, I guess after I came here.
Q Well, you know what time of the year you were married? A I was married along in the winter.
Q Was that the same winter you came, or the winter of '67? A It was along about, it thowed in '67, it was after Christmas.
Q You mean in January of '67 or the last part of '67? A It was along after Christmas, I don't remember the date.
Q What was your wife named? A My wife at that time was Rinda Martin.
Q When did you commence keeping house? A I went in my house when I first came there.
Q You and your wife keeping house separate and apart? A I was keeping house when I was single, I built me a little house, and was living in there.
Q What time in the year did you and your wife move into that house? A We moved right in the house after we were married.
Q And you don't remember when that was, what time of the year? A Along after Christmas, I was already in the house.

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M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original transcript.

(signed) M. D. Green.

Subscribed and sworn to before me this November 16, 1901.

(Signed) J. C. Starr,
Notary Public.

(SEAL)

I, A. R. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I made the foregoing copy and that the same is a true and complete copy of a certified copy of the original transcript.

A. R. Cheever

Sworn to and subscribed before me this 11th day of August, 1902.

Francis E. Jones
Notary Public.

File with Cherokee Freedman D-

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22d 1901.

In the matter of the application of Elizabeth Meigs for enrollment as a Cherokee Freedman; she being sworn by Commissioner C. R. Breckinridge, testified as follows:

- Q What is your name? A Elizabeth Meigs.
Q How old are you? A I don't know my age.
Q About how old are you? A I was four years old when we came here with the old settlers.
Q Was that when the Cherokees first moved to this country from the old nation? A Yes sir.
Q That would make you about 71 years old now wouldn't it? A Yes sir I guess so.
Q What is your post office? A Centralia.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir, I do.
Q Who do you want to have enrolled besides yourself? A My children.
Q Have you any children under twenty-one years old? A No sir.
Q They will have to apply for themselves then. A (No response).
Q Have you a husband? A No sir he is dead.
Q Then you only apply for yourself? A Yes sir.
Q Have you lived here ever since you came with the Cherokees in 1837? A Yes sir.
Q How long have you been called Meigs? A Ever since I was nothing but a girl.
Q Were you married to a man named Meigs? A Peter Meigs.
Q Is he dead? A Yes sir, five years ago in September.
Q Was he a Cherokee Freedman? A Yes sir.
Q Were you a slave in the Cherokee Nation before the war? A Yes sir.
Q To whom did you belong? A Reuben Daniel.

The 1880 authenticated roll of the Cherokee Nation examined and the applicant's name not found thereon.

- Q Are any of your family on that roll that you know of? A Yes sir, Alice Sanders is on it, she is a daughter of mine, Alice is.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's daughter identified thereon as follows:
Page 175, No. 2658, Alice Sanders, Cooweescoowee district.

The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.

- Q Did you draw your Cherokee strip money? A Yes sir.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 100 No. 2512, Eliza Meigs, Cooweescoowee district.

- Q Did you ever go by the name of Daniel? A Yes sir there was my owners.

The Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:

Page 182, No., 40, Elizabeth Daniel.

NOTE: Wife of Peter Meigs.

Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon again as follows:

Page 131, No. 2748, Elizabeth Meigs, Coowescoowee district.

- Q Where were you during the Civil war, did they take you out of the Cherokee Nation? A I was at Fort Scott during the war.
- Q When did you come back? A In the winter of '66.
- Q What time in the winter? A Well it was in the winter.
- Q Was it before Christmas, or after Christmas? A My husband was down here in the Christmas.
- Q When did he bring you down? A In the winter after he went from here of Big Creek.
- Q He came ahead of you then? A Yes sir.
- Q What time did he leave Kansas? A I cannot tell you when he first came.
- Q Did he leave Kansas before Christmas? A Yes sir he came here in the winter of '66.
- Q Did he leave Kansas in the winter? A Yes sir.
- Q Was he down here when Christmas came? A Yes sir.
- Q Do you know how long it was before Christmas before he started to come here first? A No sir I dont.
- Q How long was it after Christmas before he got back to you in Kansas? A Directly after Christmas.
- Q How long after Christmas before you and he started down here together? A Directly after.
- Q He spent Christmas that year in the Cherokee Nation by himself? A Yes sir my husband did.
- Q What members of your family came down with you and your husband? A These children.
- Q Did you bring your child Alice Sanders with you? A Yes sir.
- Q All the children? A Yes sir.
- Q Can you explain why you are not on the roll of 1880? A No sir.
- Q Do you know why you are not on that roll? A No sir I dont know nothing about the rolls.

By W. W. Hastings, Cherokee Representative:

- Q Auntie, what provisions did your husband make after he had been to the Cherokee Nation, to come down here with his family? Did he sell off what you had in Kansas? A Yes sir what little we had, we never had much to sell.
- Q Where were you living in Kansas then? A Fort Scott.
- Q About how long did it take him to get ready to come to the Cherokee Nation after he went back up there? A No time after he got back till we all come here.
- Q Was it as much as a couple or three weeks? A Yes sir I guess so.
- Q And then you started down here? A Yes sir.
- Q Was it in the spring of the year when you reached here? A No sir in the winter.
- Q The leaves were not budding out then on the trees when you and your husband and children got here? A No sir there warent no buds nor nothing on the trees, it was winter I tell you.
- Q You all came in wagons did you? A Yes sir.
- Q Who came with your husband down here when he first came? A Old man Mike Sanders.
- Q Who else? A Boston Sanders.
- Q Who else? A Daniel Sanders.

Q Any one else that you remember? A There was little Sam Webber and old man Sam Webber.

Q Any other Webber's? A Aaron Webber.

Q Did any one else come down? A I dont remember any one else now.

Q Were you there when they started down? A We all come together I am a telling you.

Q But I mean when your husband come on in advance of you. Who came with him then? Did these parties that you have named come with your husband when he first came down? A Yes sir.

Q You were at Fort Scott then? A Yes sir.

Q And they all started together? A Yes sir.

Q These that you have named are all the you can think of at the present time? A Yes sir.

Q Did they come in wagons or on horse-back that time? A They come in wagons when they first come.

Q And after Christmas you all came down did you? A Yes sir.

Q Did you come in wagons then? A Yes sir.

Q Did you come by a little place called Chetopa? A Yes sir.

Q Where did you come to in the Cherokee Nation? A I come right where I am living yet when I come to the Cherokee Nation.

Q And you are living there yet? A Yes sir, that old house was built in '66.

Q What house? A That one we is living in.

Q And you are living at the same old place? A Yes sir, in the same old house.

Q On what creek is that? A Big Creek.

Q Was any one living on Big Creek when you came there besides your own crowd? A No sir, down on Verdigris there was some living.

Q You were the advance family or crowd that came to Big Creek were you? A Yes sir, we was the advance guard.

Q Did you see any one from Chetopa along the road through the Nation to Big Creek when you came there? A No sir.

Q Did these people who first came down with you husband return with him and then come down again when your family all came after Christmas? A Yes sir.

Q You all came back together? A Yes sir.

Q Now Auntie, did any additional people--any other families come down with you? A I dont know who all come down, I am just a telling you what I know.

Q There was Daniel Sanders, and Kauben Sanders and there was Mike Sanders, and Sam Webber, old and little Sam, they all come with you? A Yes sir.

Q Did Aaron Webber come? A Yes sir.

Q And your family? A Yes sir.

Q Are there any that I missed? A That is all that I gave you.

Q Is that all that came? A Aaron Wright come with us.

Q Who else? A (No response).

Q Were there any others at all? A I am a telling you all that I can think of now, it has been a long time for an old woman like me to remember all that come.

Q You come to the place that you are living at now did you? A Yes, sir and has lived there ever since.

Q Have you any Cherokee neighbors there now that were old residents? A No sir, there was some lived on Verdigris when we come there.

Q What? A Luntie Riley was there on Verdigris, but not where we was living.

Q How far from where you settled? A I dont know how far.

Q Was it as much as 4 or 5 miles? A As much as ten miles if you guess at it right.

Q Were they the closest residents to you at that time? A Yes sir.

Q Were there any Delaware Indians there when you come there? A No sir I never saw none.

Q Any Osages? A No sir, never saw none.
Q You didn't see any body on Big Creek, neither white or black, except those that came with you? A That is all.
Q And you have been there ever since? A Yes sir, ever since we moved there.
Q You say your husband Peter Weide built a house there? A There a log house there and he bought the house and we moved to it.
Q Who built the house if you know? A Henry Harold.
Q Was he a colored man? A Yes sir.
Q Is he living? A I don't know if he is or not.
Q Some 3 or 4 years after you came down here your husband went to Tahlequah before the court, didn't he, to see about his citizenship? A Yes sir.
Q They didn't admit him then did they? A I don't know sir.
Q You know he was disputed? A I don't know nothing about it, I never paid any attention to any such things as them then.

By the Commission:

Q Were you ever admitted by the Cherokee or United States court for Commission? A I don't understand what you say.
Q Did you ever have your right to be enrolled as a Cherokee citizen before any kind of a court? A Yes sir my man enrolled us before he died.
Q I mean in Court? A That is what I am a telling you.
Q You know what a court is don't you? A Yes sir.
Q What court do you know? A Kerns Clifton court.
Q Any other court that you know of? A I know of the Wallace court.
Q Any other? A No sir.
Q Did he ever have anything done about his case by the Cherokee Council? A I don't know what was done, my man went there every year or two but I don't know what was done there.
Q How long did it take you and these people to come from Kansas to the Cherokee Nation? A I don't know how long we were on the road.
Q Have you any witnesses with you that you want to introduce? A Yes sir.

RUBEN SANDERS, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the applicant.
(Examined by the Commission)

Q What is your name? A Ruben Sanders.
Q How old are you? A I suppose I am about 50.
Q What is your post office? A Centralia.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Were you a slave in the Cherokee Nation when the Civil war broke out? A Yes sir.
Q Who did you belong to? A James Sanders.
Q Were you taken to Kansas during the war? A Yes sir.
Q You have a wife named Alice have you? A Yes sir.
Q How long have you and she been married? A About 30 years perhaps more.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's son-in-law identified thereon as follows:

Page 178, No. 2657, Reuben Sanders, Coowaseeowee district.

Q Did you ever have to carry the question of your citizenship before any court? A Yes sir.
Q What court? A The Chambers court.
Q Is that the only one? A Yes sir that is the only one; I was admitted by the Chambers court.

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Q Where was it sitting? A At Tahlequah.
 Q In what year was that? A I cannot tell what year it was.
 Q Your citizenship had been disputed had it? A Yes sir.
 Q When was your right to citizenship first disputed? A It was during the time that Thompson Oochelita was chief.
 Q Was that before the 1880 roll was made? A Yes sir.
 Q Did the court decide in your favor? A Yes sir.
 Q Was there any dispute made then about your being put on the 1880 roll? A No sir.
 Q Were you required to show a copy of the decision of the court in your favor when you went to enroll in 1890? A No sir.
 Q Did they ask you any questions when you went to be enrolled in 1880? A No sir.
 Q Where did they take your name? A I was in Goosecreek Bend, at the time.
 Q Do you know the applicant Elizabeth Meigs? A Yes sir.
 Q Your wife is her daughter? A Yes sir.

By W. W. Hastings:

Q Peter Meigs' citizenship was disputed the same time yours was? A Yes sir.
 Q Did he go before the court at the same time? A No sir, I think not.
 Q His wife's citizenship was also disputed? A I judge so.
 Q Did she go down before that court? A Not to my knowledge.
 Q Did he go down to Tahlequah to the court before that time? A Yes sir I think he went down to the Bob Daniels court, think he went with my father.
 Q Was Bob Daniels Chief Justice of that court? A Yes sir.
 Q Just a few years after the war? A Yes sir.
 Q In '71 wasn't it? A Yes sir.
 Q Was any action taken in that court? A I don't know.
 Q You were not there yourself? A No sir.
 Q You were about 15 or 16 years old when you come back? A Yes sir I guess so, I don't exactly know how old I was.
 Q You were not married then? A No sir.
 Q How long long after you got back before you married? A Not very long after I got back.
 Q Did you marry on your way down here? A No sir.
 Q How long had you been here before you married? A I have been married twice.
 Q How long had you been here before you married the first time? A. A Not very long.
 Q As much as a year? A May be so.
 Q Is that your best judgment? A My best judgment is perhaps that it was that long.
 Q When were you married to your present wife? A Upwards of 30 years, or so.
 Q How long did you live with your first wife? A Not very long, she died.
 Q A year? A Perhaps it was, maybe a little longer.
 Q Then you married your present wife? A Yes sir.
 Q When you came to the Cherokee Nation how did you come the first time? A In wagons.
 Q The first time? A Yes sir.
 Q Who came with you? A Several were on horse-back, it is beyond my knowledge how many there were.
 Q Tell all you can remember? A We made a trip in August and one in October and then we moved here in the winter.
 Q Did you come in August? A Yes sir.
 Q Who came with you then? A Some of this family, Peter Meigs and got his place; the heads of these families.

- Q Who else came with you? A My brother Dan and the Whitmires.
Q Which ones? A Several.
Q Which ones? A Mose and Dennis, and the Webbers.
Q Name them? A Old man Sam and younger Sam and little Aaron, and a man named Abe Thurman, and Abe Hair, and I dont know who else, I dont know who all came.
Q Who came when you came in October? A I dont know who all come then, some of that same crowd and some more come in October.
Q Do you remember any additional persons? A To the best of my knowledge the Smith family.
Q What was his first name? A Old man Caesar Smith.
Q You came in both of the detachments yourself? A No sir.
Q Which one did you come in? A I come in August.
Q You didnt come in October then? Yes sir, I come when we first come; we brought some of our farming utensils when we come in August and left the on the creek.
Q On Big Creek? A Yes sir.
Q Where Mrs. Meigs lives? A Yes sir.
Q And you returned in October, how long did you stay in October.
Q We all didnt return in October, we didnt all go back, some staid in August, some staid and some came back; some of us brought our things with us and some came to look out homes, we all come with the intention of making our homes here.
Q When did you afterwards move here the last time? A In the winter of '66 is when we come down here the last time.
Q What time in the winter? A Long in January.
Q You mean in '67.
Q No in the winter of '66.
Q If you came here in the August and October of '66 and then returned for your families and came back here in the following winter, in the following January or February, that would be in '67? A I dont understand you; we came here in the winter of 66 is what I said, in January after we had first been here in August and October, we came right to where Mrs. Meigs is living now.

By the Commission:

- Q You say you first came here in August of '66? A Yes sir.
Q That was your first coming was it? A Yes sir.

By Hastings:

- Q When you moved here permanently, tell all that you possible can remember of the same with you in the January or February following?
A This family is one, her, the Meigs family, Peter Meigs, Elizabeth Meigs, Mary Meigs, George Meigs, Simon Meigs, Harriett Meigs, Perry Meigs, that is all that I can remember of that family.
Q I dont mean only of that family, where were other families were there not? A Old man Billie Porman.
Q Who else? A He had several children.
Q The heads of families I mean? A Fannie Sanders; I dont recollect them all; I dont know as I can call the names of all of them.
Q Were any of the Webbers along? A Yes sir.
Q Old man Sam and young Sam? A Yes sir; I would not pretend to call them all over as I had forgotten them Webbers and so I cant remember for if I has forgotten them I dont think I can remember any of the others.

By the Commission:

- Q Was old man Sam Webber along? A Yes sir.
Q Did his son Sam come? A Yes sir.

By V. E. Hastings:

- Q Don't you remember any one else? A Rachel Feaster.
- Q Do you think of any one else? A No sir.
- Q You know that it was a mooted question before the Kerns Clifton Commission as to who came at this time and as to when you come? A. I haven't been interested as to anyone except for myself.
- Q You know that there is a question about who came don't you? A Yes sir I guess I do.
- Q You say you came to Big Creek? A Yes sir.
- Q Did you come by the way of Chetopa? A Yes sir I guess that we did, I don't know that they called it Chetopa then, there was a house or so there.
- Q Did you cross the river there? A What river.
- Q Neosho? A No sir.
- Q You didn't cross at the Gilstrap ferry? A No sir we crossed 20 or 30 miles from there.
- Q You came through what is Chetopa and came on west through the prairie? A We may have.
- Q You were in Wagons? A Yes sir.
- Q Were there any persons living on any of that country from Chetopa west, out to Big Creek except your own people who had come in August or October before that? A I have no knowledge of any one living there before that.
- Q Were there any houses there except those that your crowd built? A I don't know of any houses, but there were foundations for them on Big Creek.
- Q Then the houses were not built before you moved there with your families? A Yes sir some were, there there were logs on some up 8 or 10 logs high.
- Q Then there were none really completed until you moved there with your families? A No sir.
- Q Did you make a crop there the first year that you moved there? A Yes sir as near as we could with one horse plows and hoes.
- Q Do you know Jim Martin? A Yes sir.
- Q How far does he live from you now? A 4, 5 or 6 miles.
- Q Was he living there when you people moved there? A No sir.
- Q He had a brother names William Martin? A Yes sir.
- Q Was he living out there then? A No sir.
- Q There was an old man by the name of Carter living out there then, wasn't there? A No sir; there was an old man named Carter living 20 miles perhaps from there quite a while after we come there.
- Q Was his name Dick Carter? A I think it was.
- Q You say he lived some 20 miles from there? A Yes sir 20 miles below, on the Verdigris river. He come some time after.
- Q Do you know if that ferry that you crossed the Neosho river was called Gilstrap ferry? A No sir we never crossed on Gilstrap ferry.
- Q There were no farms made there when you passed through--no citizens had farms up there? A No sir none that I saw.

By the Commission:

- Q You stated, I believe, that the first time that you come to the Cherokee Nation after the Civil war closed was in August of '66?
- A Yes sir.
- Q For what purpose did you come back then? A To make it our home; the proclamation had told us to come home, that it was open for us to come.
- Q You didn't bring your families with you then? A Only part of them and some things that we had.
- Q Part came with their families and part came to prepare for their families? A Yes sir.

Q What men were with you on that first trip? A This family, the Meigs family, not all of this man's boys, but the old man Meigs, Peter Meigs.

Q You didn't bring your family with you at that time did you? A No sir.

Q Did Peter Meigs bring any of his family then? A No sir.

Q Did you go back to Kansas after that? A Yes sir.

Q When did you bring your family? A Our family came in October.

Q When did Peter Meigs go back to Kansas? A I think with my father.

Q You came yourself in August? A Yes sir with my father.

Q You went back to Kansas after that? A Yes sir my father went there and I went with him.

Q When did Peter Meigs go back? A He went with the crowd.

Q Did he go with you and your father? A Yes sir.

Q Then you returned to the Cherokee Nation again in October? A Yes sir.

Q Did your father come with you? A Yes sir.

Q Did all the members of your own family come with you? A No sir, not all of them came in October.

Q Where was Peter Meigs in October? A He come with us at each trip.

Q Did he go on to Kansas with you? A Yes sir.

Q And then you came back here to the Cherokee Nation in October?

A Yes sir.

Q Did Peter Meigs come back with you to the Cherokee Nation in October? A Yes sir.

Q That made the second time that Peter Meigs had been here? A Yes sir.

Q Where was Peter Meigs in Christmas of '66, do you know? A No sir I don't exactly know where he was in Christmas of '66.

Q When Peter Meigs got back to the Cherokee Nation with his family did he settle in the Cherokee Nation near your family? A Yes sir.

Q How far apart? A Two or three hundred yards apart.

Q Did he then go back to Kansas for his family after he made that October trip with you? A No sir he went back after something to eat.

Q You stated that he brought his family the last time in February, when did he go back after his family? A The third time he brought his family.

Q You state here then? A Yes sir.

Q When did you come? A In the winter.

Q Was it in February? A Must have been in December.

Q What about that February trip you spoke of? A It was in the winter some time. Snow on the ground.

Q Did your father come at that trip? A Yes sir.

Q Your mother? A Yes sir.

Q Peter Meigs? A Yes sir.

Q His wife? A Yes sir.

Q That was your third trip? A Yes sir.

Q Was that your last trip? A Yes sir.

Q When did your wife Alice come? A Come then.

Q On that third trip? A Yes sir.

Q You say Peter made all three trips with you? A Yes sir.

Q Every time you came he came? A Yes sir.

Q Every time you went back to Kansas he went back? A Yes sir, that is to the best of my knowledge.

Q Did he go there by himself? A No sir.

Q Do you remember distinctly that you came here in August the first time? A Yes sir.

Q Do you remember distinctly that Peter came with you in August and October? A Yes sir.

Q Do you remember distinctly that he come with his family when you made your third and last trip? A Yes sir.

Q With his family? A Yes sir.

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By Com'r Breckinridge, -

The applicant states that she was a slave in the Cherokee Nation from the time the Cherokees moved to the Indian Territory in 1837 until she was liberated by the Civil war. She is identified on the Kerns-Chilton roll and on the Wallace roll, but not on the 1880 roll or upon the roll of 1896. The testimony indicated that her husband first returned to the Cherokee Nation after the war, coming from Kansas in August of 1866, that he came at that time to prepare for the bringing of his family back to the Cherokee Nation. He is now deceased, but he and the applicant were married at that time and had several children. The testimony further indicated that the applicant's husband made a trip back to Kansas in October, but not with a view of relinquishing his purpose to bring his family to the Cherokee Nation, but apparently to get provisions. It further appears that he returned to the Cherokee Nation with his wife and children in the following month of February. There is some conflict of testimony in regard to this matter, but so far that is the weight of the testimony. It also appears that proceedings may have been had by some Cherokee Court, either a citizenship court or the Cherokee Supreme Court, prior to the date of the Chambers Court, affecting the citizenship of this applicant and her husband and all those who may claim through them. It will be necessary to make further inquiry upon this point, and if possible to get an official copy of the record. Under these conditions, the applicant will now be listed for enrollment on a doubtful card and the final decision of the Commission will be made known to her at her post office address.

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Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas. von Weise.

Subscribed and sworn to before me this the 28th of May, 1901 at
Chelsea, I. T.

T. B. Needles,

Commissioner.

POOR ORIGINAL -
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~~CONFIDENTIAL~~

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 22, 1901.

In the matter of the application of Elizabeth Meigs for enrollment as a Cherokee Freedman;
REUBEN SANDERS, having been before sworn by Commissioner Breckinridge, testified as follows:

Q Give your name? A Reuben Sanders.
Q How old are you? A I am only about 50 past.
Q You gave testimony just now in the case of Elizabeth Meigs?
A Yes sir.
Q And you want to correct a statement you made there? A Yes sir, I wish to make the statement that it was in January, 1867 when we made the last move, about the first of the month; it was the following August in 1866; we had been here in August you know, in '66 and in October, and we made the last move in '67, January, and I put it down February I think; I wanted to say January.
Q How do you find out now it was January instead of February?
A It was just after Christmas that we was on the road coming down.
Q How long after Christmas? A Perhaps a week after Christmas; my reason for stating this is this, along Christmas- a few days before Christmas there was a man got killed named Hayford, and there was a gentleman killed him, a colored man killed that man Hayford, a man by the name of Mackey, and we started then right shortly after that killing was, and the parties followed us, thinking he was with us, in our crowd, that was just the following- a few days after Christmas, a week, or after Christmas.

Examined by Cherokee Representative, W. W. Hastings:

Q How old are you? A Well I just don't know my age exactly, I suppose that I am about 50 years old; something in that line.
Q Where did you say that killing took place? A In Kansas.
Q Fort Scott? A Yes sir.
Q And the man that was accused of the killing was named what? A Named Mackey.
Q You remember his first name? A No.
Q You remember the man who was killed, you get his first name? A No sir I don't not.
Q Did you ever learn afterwards whether or not that man was caught, do you know? A It seems to me like I learned afterwards that the man was caught. No I don't know nothing about that part of it.
Q You know what county Ft. Scott is in? A No sir.
Q Who called your attention to this ~~error~~ error? A I thought so myself; I called my own attention to it; I was studying over it, I did.
Q You know now it was only a few days after Christmas? A Yes sir, a few days after Christmas.

Com'r Breckinridge: This statement will be filed as supplemental in the Elizabeth Meigs case, to be considered in connection with the former statement of the witness, and the other evidence relating to the date in question.

M. D. Green, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his notes and notes thereof.

Subscribed and sworn to before me this 22d day of May, 1901.

C. F. Breckinridge,

Commissioner.

BEST ORIGINAL -
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File with Cherokee Freedmen D-301, Elizabeth Meigs

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 15, 1901.

In the matter of the application of Elizabeth Meigs et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances

L. T. Brown, agent for the applicant;
J. S. Davenport, of counsel for Cherokee Nation.

L. T. Brown: I would like to have the record show that sometime next week the applicant intends to introduce as witnesses in this case, Aaron Wright, Reuben Sanders, Dan Sanders, and Sam Webber, for the purpose of showing that all the applicants in this case returned to the Cherokee Nation during the time prescribed by the Ninth Article of the Treaty of 1866.

Commissioner Needles: Hasn't that already been shown?

L. T. Brown: And that they have had a continuous residence in this country since that year.

Commissioner: Well, that is all right.

ROBERT MEIGS, being duly sworn by Commissioner Needles, testified as follows.

Mr. Davenport: What is your name? A Robert Meigs.

Q Where do you live? A I live five miles southwest of Tahlequah.

Q What is your postoffice? A Park Hill is my postoffice.

Q How old are you? A I am 56 my next birthday.

Q How long have you lived in the Cherokee Nation? A I have lived here all my life except a little while time of the war, from '64 to '65.

Q Did your people own any slaves before the war? A Yes sir.

Q Do you know whether they owned a woman by the name of Elizabeth?

A No sir.

Q Do you know whether or not they owned her mother, or anybody of the family? A Elizabeth, no, sir.

Q Well, did you know Peter Meigs? A Yes sir.

Q Do you know what his wife's name was when the war broke out?

A Betsy they called her.

Q Well, was she living, Betsy, at the time the war broke out?

A Yes, sir.

Q Well, did you ever know her by any other name than Betsy?

A Bettie.

Q Where was Peter Meigs and his family at the breaking out of the war? A Well Peter was with us at home at the breaking out, but he and his wife was up there somewhere near the Dutch Hills on the Arkansas line.

Q Well I wish you would look at that woman there and see if she is the woman you knew as Betsy or Bettie or whatever you knew her by (indicating applicant)? A Yes, I think that is the one, I have never seen her but once.

Q That is since the war? A I just saw her once in my life and that was time of the war, after the war.

Q Did you ever see Peter Meigs and his family after the war? A Yes, sir, saw Uncle Peter.

Q What year was that? A Sometime after '71.

Q What were the circumstances as to your seeing him or meeting him?

Q Why he had to come down to Council to see about fixing up his rights, and he came down to visit my brother John, we were right together, and I went up there to see him.

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Q Did you have a conversation with him or did he have a conversation with your brother John in your hearing where he and his wife were present in regard to his right or when he returned? A Yes sir.
Q Give that conversation as near as you can.

L. T. Brown: The applicant objects to this witness relating any conversation he might have had with Peter Meigs, for the reason that Peter Meigs is dead and cannot affirm or deny this statement.

Commissioner: The objection will be noted and the witness will answer.

Q Go ahead and state what the conversation was between you? A He was talking about returning, he said he came down here in the fall of '66 and started to make him a place somewhere on Big Creek and his family wasn't with him, and afterwards when he returned why it was too late when he brought his family.

Q Did you ever see any other members of his family excepting he and his wife at the time you speak of? A No, sir, just him and his wife is all, I wasn't acquainted with the children.

Q Do you know where he was living at that time? A He said he was living on Big Creek somewhere.

Q That was in what year? A This was after '71 sometime, I don't know just what time it was.

By L. T. Brown: Now what did you say that conversation was, Mr. Meigs? A Why he said that he had come down to make him a place somewhere up here on the Verdigris, or Big Creek, and he started to make him a cabin, and put up the wall, and then went back for the family.

Q He told you that he came down and started him a little cabin with the intention of making him a home in the fall of '66? A He said he came down and started to make him a home.

Q In the fall of '66? A Yes, in the fall of '66.

Mr. Davenport: Well, what did he do after he started that home, did he say, after he started that cabin? A Went back after his family.

Q And he stayed up there till when he came back down here it was too late is that what he told you? A Yes, sir.

L. T. Brown: How long did he tell you he stayed up there in Kansas after he made the first trip? A He didn't state, I believe he gave but one date.

Commissioner: This testimony will be made part of the record in the case at bar, and also part of the record in D case 394, I-396, D-398, D-401, D-402, D-401, D-407, and D-775, and the sub-references.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 7th of November, 1901.

T. B. Woodlee,

Commissioner.

FOR ORIGINAL -
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File with Cherokee Freedmen D-391, Elizabeth Meigs.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 19, 1901.

In the matter of the application of Elizabeth Meigs et al. for
enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of the applicant.

Appearances:

L. T. Brown, agent for applicants;
L. E. Bell, of counsel for Cherokee Nation.

DANIEL SANDERS, being duly sworn by Commissioner Needles, tes-
tified as follows:

By L. T. Brown: State your name? A Daniel Sanders.

Q What is your age? A About 59.

Q What is your postoffice address? A Centralia.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Does your name appear upon the authenticated roll of 1880?

A I think it does.

Q You know Elizabeth Meigs and George Meigs? A Yes, sir.

Q What relation is George Meigs to Elizabeth Meigs? A Her son.

Q Did you know Peter Meigs during his life time? A Yes, sir.

Q Do you know whether Peter Meigs, Elizabeth Meigs, and George Meigs
were out of the Cherokee Nation during the war? A Yes, sir.

Q When did they return to the Cherokee Nation? A They came in '66.

Q With whom did they return? A They came with me and my father
and the Webbers.

Q Have they had a continuous residence in the Cherokee Nation ever
since? A Yes, sir.

Mr. Bell: When did you come to the Cherokee Nation yourself after the
war? A In '66.

Q What time of the year? A First of December.

Q That was the first time? A Yes, sir.

Q When did you make your second trip? A Along in first part of
January.

Q That was January, 1867? A Yes, sir.

Q Now which one of these trips was it that Peter and his family
came with you? A They came both times.

Q Came both times? A Yes, sir, the old man came the first time and
then the last time the family came.

Q Peter came with you alone the first time? A Yes, sir.

Q Then the second time he brought his family? A Yes, sir.

Q What did his family consist of? A Mary, George, Alice, Harry, Simon,
and Perry.

Q Then was his children? A Then was his children.

Q Well he had his wife Elizabeth with him, didn't he? A Yes, sir.

Commissioner: This testimony will be filed and made part of
the record in the case at bar and part of the record in D-394, D-396,
D-398, D-401, D-402, D-404, D-407, D-775.

Bruce C. Jones, being duly sworn, says that as stenographer to
the Commission to the Five Civilized Tribes he correctly recorded the
proceedings and testimony in the above case, and the foregoing is a
true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this 14th of November, 1901.

T. B. Needles,

Commissioner.

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The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and the same is a true and complete copy of the original.

Ray Palmer

Subscribed and sworn to before me this the 8th day of August, 1902.

Orville C. Jones
Notary Public.

Supl.-C.F.D. 3

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
SAMUEL BECK as a Cherokee freedman; introduced on part of the
Cherokee Nation:

Appearances:

L. T. Brown, Vinita, I. T., Agent for Applicant;
J. S. Davenport, Cherokee representative.

L. B. BELL, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A L. B. Bell.
- Q Where do you live, Mr. Bell? A Vinita, Indian Territory.
- Q How long have you lived in and near Vinita? A Oh, since '67, including most of '67.
- Q Was there any railroad running in or through Vinita when you first moved into that community? A No, sir.
- Q When did the railroad first come through that country, Mr. Bell?
- A In 1871.
- Q You know this applicant, Sam Beck? A No, I don't know him.
- Q Don't know anything about him? A No, sir.
- Q Was you living in that country before the railroad started from Kansas through the Indian Territory; that is, the M. K. & T.?
- A Well, I will tell you what I know about the railroad; The railroad came through the country in 1870, and on the application of the Cherokee Nation, a complaint to the Secretary of the Interior, they stopped building and during the session after 1870 of the National Council of the Cherokee Nation, they passed an Act there, it is dated the 14th of December, 1870, authorizing the furnishing of cross-ties to the railroad, and agreeing that the railroad could go through. The Secretary hadn't determined which had the right-of-way. They had begun it in 1870 and the M. K. & T. got the right-of-way, and then they authorized the selling of cross-ties, and I went to Chetopa and made a contract with the Company for cross-ties enough to build from the Kansas line to Pryor Creek and sublet it. Mr. Martin was one I sublet to, that was in 1870 that contract was made, I don't recollect the exact date. Well, just a few days following that we began getting cross-ties and then worked on down to the Creek Nation. That was the first railroad built in the country and the first cross-ties was cut on the railroad in this country.
- Q You don't know anything about the wife of Beck or anything about them? A No, I don't.

C. D. MARCHAM, being duly sworn, testified as follows on
part of the Cherokee Nation:

MR. DAVENPORT:

- Q What is your name? A C. D. Marcham.
- Q Where do you live? A At Tahlequah.
- Q How long have you lived in the Cherokee Nation?
- A I was born and raised here; never was but except during the war.

Q Where did you live before moving to Tahlequah? A Lived on Grand river east of ChotEAU about ten miles.

Q Do you know Samuel Beck, the applicant in this case, or his family? A No, sir.

Q Where were you living along the latter part of the sixties or early part of the seventies? A On the Grand river.

Q Do you know about the year the M. K. & T. railroad built from Chotopa, Kansas, down through the Territory? A It must have been the latter part of '71 or '72.

Q Had you any connection with it any way that makes you remember it? A Yes, sir, I had a contract on the road, beginning at Bryant's lake, down this way.

Q And that was in what years it built down there? A The ties was put in there in the spring, latter part; it was in the spring of '71.

BY ATTORNEY BROWN:

Q You don't know the applicant, Mr. Markham? A No, sir, I don't.

Q You don't know to whom he belonged before the war or when he returned to the Cherokee Nation? A No, sir.

Commission: This testimony will also be filed in and made a part of the record in Cherokee freedman case No. D.391.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson.

Subscribed and sworn to before me this February 27, 1902.

(signed) T. B. Needles,
Commissioner.

...

I, A. R. Cheever, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I correctly copied the original of this case, and that the foregoing is a correct copy thereof.

A. R. Cheever

Sworn to and subscribed before me this 7th day of August, 1902.

Prince E. Jones
Notary Public.

Reported and shown to before the date 22nd 1912

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Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May, 13, 1902.

In the matter of the application of Elizabeth Leigs for the enrolment of herself as a Cherokee Freedman.

Cherokee Nation appears by W. E. Hastings.
Applicant appears by L. T. Brown.

MRS. LYDIA BARTON, being first duly sworn testified as follows:

- MR. HASTINGS: What is your name? A Mrs. Lydia Barton.
Q What is your postoffice? A Fort Scott, Kansas.
Q Do you hold any official position at the present time? A Yes, sir.
Q What is it? A County Clerk.
Q Of the county in which Fort Scott is located? A Yes, sir.
Q Have you an official paper? A Yes, sir.
Q What is it? A Our official paper at the present time is the Republican, but that changes you know from time to time.
Q Do you know what your official paper was in December, 1899, and up to and including March of 1900? A Yes, sir.
Q What was it? A The Fort Scott Monitor.
Q Are you required to keep files of this paper in your office? A Yes, sir.
Q Have you a file of the official paper including December, 23, 1899 up to and including March of 1900? A Yes, sir. (Here presents file.)

MR. HASTINGS: The Cherokee Nation offers in evidence the account found in the Fort Scott Monitor of date Wednesday, December, 26, 1899, found on the second column of the editorial page, headed "Another Murder."

MR. BROWN: Comes now the agent for the applicant and objects to the introduction of these newspaper accounts for the reason that they are incompetent, irrelevant and immaterial, and purely hearsay.

COMMISSION: The objection will be noted and the newspaper accounts introduced in evidence and considered for what they are worth.

"Another Murder."

Shooting of D. Hayford.

Testimony given before the coroner.

On Saturday night, the 22nd. inst., after dark, Mr. Dyer Hayford of this city was found murdered. A colored man, named Eli Hackey, has been arrested, and is in jail, charged with the crime. There would not seem to be much, if any, doubt of his guilt. Mr. Hayford has been a resident of Fort Scott for several years, has kept a grocery and provision store on the corner of Williams and Bigler Streets, and was a very quiet and inoffensive man. The facts of his murder as we learn them, are these:

On Saturday, about dark, the sack of flour which Mr. Hayford had placed on a box, outside the door of his store, was stolen. Bell missed almost immediately, and learning that Hackey had taken it, and was then on his way home with it, (Hackey resides near Fort Scott Mills,) Mr. Hayford jumped on a horse and started towards the mill. He had not been gone more than twenty or thirty minutes before several shots were fired, on the road between the city and the mills, where Mr. Hayford was found on the ground, in the last agonies of death. He had received four shots from a weapon, evidently a revolver.

Suspicion was at once directed to Hayford and he was arrested. As the news spread through the city, the excitement and the indignation was greatly increased. Threats of lynching Hayford were made; but wiser and better counsels prevailed, and there was no disturbance.

On Sunday, Justice Mayhew was called on to hold a coroner's inquest. A jury was empanelled, consisting of J. Lee, J. E. Drake, Joseph Ray, Frank Clough, for ex officio, Jos. Warden, and E. L. Phillips. The body of Mr. Hayford having been taken to his late residence, the jury proceeded to inquire into the cause of his death. We give the principal part of the testimony given before the jury.

Dr. J. S. Redfield and H. F. Harter were called to the examination, and testified that they found four pistol wounds on the body and face of poor Hayford, three in the back and one in the side of the head. The first wound was in the back of the head, the second was in the back of the neck, the third was in the back of the shoulder, and the fourth was in the side of the head. The first wound was about two inches above the ear, and about an inch and a half apart from the second wound, coming out below the left shoulder. The other wounds were found close to the spinal column, a few inches below the lower ribs on the left side of the body. The fourth ball entered the upper part of the chest, not fracturing the bone, and lodged in the right shoulder, evidently fired, he testified, after he was on the ground. The surgeon testified that any of the three wounds found on his body would have been fatal.

Alonso Gullins (colored) sworn - Saw Mr. Hayford's set out, evening, just after six o'clock, came on horseback, left my horse at the door, went in and found Hayford alone and coming toward the door. Eli Mackey, colored, was standing on the walk when I went into Hayford's; a sack of flour was standing on the box at the door when I went in. Hayford came out and the flour was gone; he asked me who was there when I came in, and I told him; asked me to get on my horse and follow Mackey and see if he had the flour; did so; rode very fast and overtook Mackey at the mill, going toward the mill; he had stopped and the sack of flour was on the ground beside him; his coat was off and thrown over the flour but the end of the sack was in sight; I rode close to him; he put his hands up to his sides and was blowing right and left; I inquired if he had the flour with a rope on his neck; he said no; I rode back to Mr. Hayford's and told him Mackey had the flour and where it was; Hayford said he would go and get the flour, and asked me for my gun; he got on and rode down the road; he had been gone a good while before I heard the firing; he had been gone long enough to ride to the mill and back to the place where he was shot; before I heard the firing, I saw Mackey at Hayford's who was on a soldier's coat; it was off when I found him with the flour; didn't notice that a long time whether Mackey had any arms or weapons with him; saw him again after he was arrested, a short time after Hayford was killed; he then had a different coat. He asked what he was arrested for; he was told, for stealing flour; he asked who had so much flour with the flour; he was then told he had shot Hayford; and he said he had nothing to shoot with. I know that he generally carried a revolver; when I saw him with the flour I didn't notice whether he had one or not. When Hayford started from the store, he said he would go and get Mr. Myers to go with him to get the flour; from the place where I saw Mackey with the flour to that where Hayford was shot, is about one hundred yards. I heard these shots distinctly.

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Harry Lender, (colored) sworn - Saturday evening heard several shots fired. Was at home, lived near the mill close by Eli Mackey. About twenty minutes after the shots were fired Mackey came to my door; asked me if his wife was there; told him no. He seemed to be in a hurry. He had on a black soldier's coat; the shooting sounded as if it was south from my house, and about the place where Hayford was found; someone rode down to Mackey's and returned about fifteen minutes, before the shots were fired. Saw the coat which Mackey wore when he came to my house, at his house afterward. - Do not know whether he had any revolver then or not, he usually carries one, have seen him have one several times. I did not notice any flour on his coat. It was a navy revolver which Mackey usually carried. He also owns a gun; didn't see that at his house that night. When Mackey left my house he went to his house, and soon afterward heard him going back to town whistling. Mr. Jones found the sack of flour at the edge of the creek, looked as if thrown down the bank. Was found about twenty yards from Mackey's house. Saw Mackey have a revolver on Friday the day before Hayford was killed.

E. C. H. Myers, sworn - I live about 100 yards west of Eli Mackey's. Saturday night was at home sick abed; a man came to my house and inquired for me; I heard him and knew by his voice that it was Mr. Hayford; have known him several years. He left and my wife said he rode in a northerly direction, that is the way from my house to Mackey's. About five minutes after he left I heard four distinct shots. From the sound thought they were about 150 yards off and southwest from my house. After the firing heard someone walking past, whistling; he was going towards town.

Stephen Dooney, (col.) sworn - After dark Saturday night I saw Eli Mackey at Smith's saloon. He asked me to play cards with him that night. He went out and I told him not to stay long. I waited a good bit and Mackey didn't come back and I went out and called him; he didn't answer; I then went over to Hayford's and learned that a sack of flour had been stolen. Didn't notice whether Hayford was there or not. Monroe Gullin told me he saw Mackey on the road towards home, and that Mackey heard me call, but wouldn't answer. Didn't see Mackey again until Mr. Jones had arrested him, and brought him up to town. When I saw Mackey at Smith's he had on a soldier's frock coat; he had a revolver on him then; it was a big navy revolver. When I saw him after he was arrested, I think he had on a different coat.

Daniel O'Neill, sworn - Saturday night I was at Kirby's and heard a shot fired, and soon after heard a man halloo; run out and another shot was fired before I got out; immediately after heard another shot and saw the flash of a pistol down in the bottom toward the mill. Alex Harris, Westly Dickey and myself ran down the road. We found a man lying on his side; his face was turned downward; he was alive but could not speak. From the sound I knew it was a pistol that was fired. Came to town to find Mr. Jones, Deputy Marshal.

The coroner's jury returned to the justice their inquisition, stating that Dyer Hayford came to his death by gun-shot wounds received at the hands of Eli Mackey; they also found that Mackey had feloniously and wilfully fired the revolver at Mr. Hayford with intent to kill him.

Mackey will have his examination soon, before Justice Margrave, and will no doubt be committed for trial at the next April term of the district court. Mackey is said to be a very dangerous man; he was raised in the Cherokee Nation, and is said to be part Cherokee. He is also accused of having assassinated two men in the Nation, before he came to Fort Scott.

and he was once before arrested here, for shooting at a man; but before his trial came off the prosecuting witness left for parts unknown, and Mackey was discharged without trial. Let him be tried for the offence with which he now stands charged, and if guilty he should expiate his crime on the gallows."

MR. HASTINGS: I desire to introduce an editorial from the Fort Scott Monitor of date February, 27, 1867, as follows:

"Eli Mackey, colored, accused of the murder of Dyer Hayford, confined in our jail, to await his trial at the next term of the District Court, for murder in the first degree, escaped last evening, and up to the time of going to press this morning, has not been heard of. A reward of two hundred dollars is offered for his apprehension."

MR. HASTINGS: The Cherokee Nation offers in evidence the following from the Fort Scott Monitor of Wednesday, March 27, 1867:

"A Chapter of Horrors.

Murderer of Hayford Captured and Hung.

Tragical events connected with the affair.

The history of our community for the past week is replete with horrors, such as will, for long days to come, overshadow the hearts of our citizens with gloom.

A few weeks ago, we published an account of the escape of Eli Mackey, the black fiend, who last winter murdered Dyer Hayford. Ever since that time the officers of justice have been on the alert with a view of his recapture, and on Wednesday, the 20th inst., Deputy Sheriff Wheaton, having learned that the murderer was concealed in his brother's house, about five miles northeast of this city, started, in company with his son, Charles T. Wheaton, Edward Coe - who were on police duty in this city - and Benj. Files, for the purpose of capturing him.

On arriving at the house, Messrs. Coe and Wheaton, Jr., approached and ordered the wretch to surrender. In return he fired several shots through the partially open door, and then ran out of the house into the open prairie. Coe, being nearest, received the first shots that were fired. He stopped to the corner of the house, sat down and expired in about fifteen minutes. Immediately after Charley Wheaton received a ball in the right side and fell to the ground. For some time no hope was entertained for his recovery; but at the present writing his condition is improved, and his friends entertain some hopes that he will live.

In the mean time a number of the neighbors had gone around and headed by Capt. Curtis Johnson, Mr. Files and Mr. Dickinson started in pursuit. The murderer, with a gun and revolver in his hands, ran fleetly across the prairie, firing at his pursuers as he ran, and dropping down to load as fast as his weapon became empty. Finally, when nearly dead from the wounds he received from his pursuers, he signified his readiness to surrender; but even after they approached him his bloodthirsty spirit was not satisfied, and he fired the two remaining shots in his revolver at the crowd. Fortunately, no one was injured, though Mr. Dickinson had part of his coat shot off. After the murderer was secured he was taken back to the house from which he had fled and hung by the neck until he was dead. Before his death he tried to implicate an innocent negro in the murder of Mr. Hayford, but having been caught in the falsehood, he confessed to having committed the deed himself. He also confessed to having killed five other men, and also to having shot at Major Hafford last winter. - All reports indicate that he has always been a character with scarcely a parallel in the annals of history for desperation

and bloodthirstiness. - We are informed that at one time, in the Cherokee Nation, 25 men attempted to arrest him but failed on account of his desperation. The colored people, who knew him, were terrible afraid of him. History has seldom presented a character so utterly lost even to every sentiment of humanity.

As a general rule, we have always depreciated the taking of life except by due process of law, as dangerous to the peace and quiet of the community and to the best interests of society. We have always found that nothing but the most extreme necessity would justify it, but we believe in this instance that necessity existed; for every moment this desperado was allowed to live, endangered the lives of good citizens. We learn that the house he occupied was soon burned to the ground. The sufferers from their attempt to arrest him, were among the best of our young men. As members of the police force of this city they have performed their duties faithfully. Generous and brave to a fault, the death of one and the danger to the other creates a spirit of sadness that cannot soon be eradicated.

The body of Mr. Coe was brought into the city, and on Friday after a funeral sermon by Mr. Irwin was escorted by a large procession, headed by the members of the Grand Army of the Republic, to the cemetery where it was interred.

Sequel.

On Thursday night a crowd of about fifty men, still laboring under the excitement growing out of the tragedy of Wednesday, entered the jail and having possessed themselves of the keys took Jackson Mackey and Harry Vann - on the brother who harbored the murderer and the other charged with furnishing provisions and aiding in his concealment, to the ravine near the poorhouse and hung them to a tree where their lifeless bodies were found next morning. So quietly was this done that few in the city except those who participated knew of it until the next morning."

Benjamin Files, being first duly sworn, testified as follows:

MR. HASTINGS: What's your name? A Benjamin Files.

Q What is your postoffice? A Fort Scott.

Q Kansas? A Kansas, yes, sir.

Q Were you living there at the close of the war? A Yes, sir.

Q Were you living there in '66, December? A I have lived there ever since '62.

Q Did you know Dyer Hayford? A Yes, sir.

Q Had you known him before December '66. A Yes sir, I had known him in the neighborhood of two years before that and knew him up until that time.

Q Was he killed? A He was killed at Fort Scott.

Q Was he killed in the town? A He was killed just at the brink of the hill along in the mouth; yes, sir he was killed in the city just about the brink of the hill.

Q About what time of the day was he killed? A He was killed just after dark, just dark.

Q Do you know who killed him, who was said to have killed him, who was accused of killing him? A Yes, sir.

Q Who? A Eli Mackey.

Q Was he a colored man? A Yes sir, he was.

Q Did you assist in his arrest? Yes, sir.

Q Who arrested him? Myself and a man we called Deacon Jones.

Q That this other man here with you? A Yes, sir.

Q About how long after this reported killing? A I heard the shots fired, then run down there and run over him; I lit a match and this man drew his breath twice. From the time the shots fired I wouldn't it was more than twenty minutes.

Q Twenty minutes? A Yes, sir.

Q Had it become generally known at the time of the arrest? A No, sir.

Q There was no time for the public to know? A Only a few people knew; I heard the shots fired myself and run down there.

Q And a few people knew that the killing had taken place before he was arrested? A Yes, sir.

Q And the excitement then, was that after that? A Yes, sir, they didn't have time to know it.

Q Was he put in jail? A Yes, sir.

Q How long did he remain in jail? A Till about the twentieth, sometime in February, 20th I think it was.

Q Of February following, of '87? A Yes, sir.

Q Well did he make his escape? A He got away.

Q He got away? A Yes, sir, he got past the turnkey, Ed Coe.

Q Ed Coe was the turnkey was he? A Yes, sir.

Q I will ask you then if there was any searching parties out for this man? Yes, sir.

Q For how long? I think he was killed on the 20th of March.

Q From then about the 26th of February until the 20th of March people looked for him, a reward offered for him? Yes, sir, some three hundred dollars I believe.

Q Well were there quite a number of people out searching for him?

A Yes, sir.

Q Considerable excitement at that time? A Yes, sir.

Q Did people go out in the country looking for him? A Yes, sir, and searched houses and searched lands, they looked around for him, but failed to find him.

Q Up until that time? Yes, sir.

Q You say that was for about three weeks? A Yes, sir, something over three weeks.

Q From the 20th of February up until about the 20th of March? A Yes, sir.

Q Do you know whether this Eli Mackey was reputed to be a Cherokee? A Yes, sir, he was.

Q I believe there was a newspaper account to the effect that when he was captured he was hung up there? A He was killed, yes, sir.

Q What I want to get particularly from you was whether there was any search made for him at the time he was killed or whether search was made for him after his escape, after the 26th of February? A There was no search made for Mackey until he broke jail.

Q No houses searched, nor no wagons, nor no nothing when he was first captured? A He was in jail. I don't think it was much over a half an hour, I don't think it was any; he was in jail in not much over half an hour after he shot Hayford; I heard the shot that killed Hayford.

Q And you helped to arrest him? Yes, sir, I got to Hayford before he died, but he was too far gone; I lit a match and he was too far gone to speak.

Q You had known Hayford prior to that time? A Yes, sir, him and me was friends.

Q You was a friend of his? A Yes, sir.

H. C. Jones, being first duly sworn, testified as follows:

MR. HASTINGS: What is your name? A H. C. Jones.

Q What is your postoffice? A Fort Scott.

Q Kansas? A Kansas, yes, sir.

Q What is your age, please sir? A 66.

Q Were you holding any office in the town of Fort Scott, Kansas, in December of '66? A I was.

Q Well were you holding any office at the time a man by the name of Hayford was killed by Eli Mackey? A I was.

Q What office was that? A City Marshal, called town constable.

Q You was a city policeman? A Yes, sir.

Q Did you assist in his first arrest? A I did.

Q Who assisted you in the arrest? A Mr. Benjamin Files.

Q This man that's present here? A Yes, sir.

Q Did you hear the shots that killed Hayford? A I did.

Q How soon after Hayford was killed was Mackey arrested, Eli Mackey?

A 20 or 25 minutes, inside of a half hour at most.

Q Very short time? A Yes, sir.

Q Had any houses or wagons or anything of that kind been searched in the mean time? A No, sir, there was no knowledge.

Q People didn't generally know it up to that time? A No, sir.

Q Put in jail then? A He was taken right to the jail as soon as he was arrested, he was hurried off to jail for fear of any mob violence.

Q Well how long did he remain in jail, do you remember? A Why I think something like six weeks or more.

Q Well the Fort Scott Monitor puts it about February 26th? A I presume that was right, it was correct. It was hard for me to remember exactly.

Q Well he remained in jail up to that time? A Up till that time, he was not out of jail except while he was under guard.

Q He made his escape then? A He made his escape, yes, sir, at the time.

Q You know how long he was at large? A Well I put it something like three weeks.

Q I will ask you if there was any searches at that time made for him?

A You mean after?

Q When he got away after February 26th? A Oh yes, sir, there was considerable hunt for him at that time.

Q Reward offered for him? A Yes, sir, reward offered.

Q People searched around in the country for him? A There was quite a number of both officials and independent searches, they would search for him for the first couple of weeks of his escape from there.

Q He was afterwards captured was he? A Yes, sir, he was located afterwards, he hadn't been out of a radius of probably ten miles from there after he got away, he was captured.

Q Do you know whether this Eli Mackey was reputed to be a Cherokee colored man? A He was called a Cherokee refugee, yes, sir, had the reputation, that is his name, of being a Cherokee nigger.

COMMISSIONER: You are positive about these dates? A To the best of my knowledge now, I would have put it, that is, a week before the holidays, and I knew it was only a few days before Christmas when the killing was done.

Q '67? A In '66 the killing was done.

Q Few days before Christmas of '66? A Yes, sir.

MR. HASTINGS: The Cherokee Nation asks that all the testimony introduced in the case of Aaron Webber, D-216, with reference to the return of the Webber detachment, be introduced and made a part of the record in this case.

MR. BROWN: Comes now the agent for the applicant and moves the Commission to strike from the records of this case all the testimony taken on this day, for the reason that it is incompetent, irrelevant, immaterial and not the best evidence, it being itself requested.

COMMISSION: The request of the representative of the Cherokee Nation will be complied with, and the testimony filed.

This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. D-394, D-395, D-396, D-401, D-402, D-404, D-407, D-775, and in D-381, the same being the case at bar.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 14th day of May, 1902.

(Seal)

(Signed) Philip G. Peator,

Notary Public.

I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and perfect copy of the original now on file with the Commission, as the same was made by me.

Arthur G. Evans

Subscribed and sworn to before me this 23rd day of July, 1902.

Philip G. Peator
Notary Public.

ORIGINAL -
BEST AVAILABLE COPY

72.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Isaac Whitacre, Trustee for the Freedmen, vs. The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 423, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Jack Starr, D 443;

By W. W. Hastings:

Come now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation certainly most strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

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Copy, in part, of certain records in the custody of
this office.

— — — — —

"The following named persons have been reported by the 'Commission on Citizenship' of 1978-9, as having appeared, or been summoned before the Commission, with the decisions of the Commission upon their respective claims to citizenship. (Copied from Commission's report on file in Executive Office)."

Congressman District.

Admitted: (among others), Aaron and Lewis Whitmire (Wright).

Rejected: (among others), David Hayes, Cusmer Smith, Samuel Whitmire, Berry Ward, Santa Ann Nivens and Jack Starr.

Delaware District.

Rejected: (among others), Jess Whitmire."

— 108 —

I hereby certify that the foregoing is a true and correct copy of certain proceedings had before the Commission on Cherokee Citizenship as contained in Docket "A" of said Commission, and that the said docket is in the lawful custody of this office. And it is ordered that a copy of said proceedings be filed with and made a part of the record in the consolidated case of Jack Starr et al., Cherokee Freedmen B 445, et al.

Wm O Seal
Acting Commissioner

Dated at Muskogee, Indian Territory,
this **SEP 12 1905**

(17M)

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Jack Starr et al., as Cherokee Freedmen, consolidating the applications of:

Jack Starr,	Cherokee Freedman	D	443,
Charley Starr,	"	"	D 346,
Peggie Grinnett	"	"	D 930,
Lizzie Starr	"	"	D 620,
Eddie Starr	"	"	D 904,
Elijah Starr, et al.,	"	"	D 900,
Thella Jones,	"	"	D 1083,
Frances Anderson, et al.,	"	"	D 627,
Claude Steele	"	"	D 687,
Abbie E. Williams, et al.	"	"	D 489,
Cornelia Martin,	"	"	D 534.

D E C I S I O N .

THE RECORD IN THIS CASE SHOWS: That applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by Georgia Starr for, among others, her husband, Jack Starr; by Hannah Starr for, among others, her husband, Charley Starr; The others included in said applications have been otherwise disposed of, and their rights to enrollment as Cherokee freedmen will not be considered in this decision. By Henderson Grinnett for his wife, Peggie Grinnett; by Lizzie Starr for herself; by Eddie Starr for himself; by Elijah Starr for himself and wife, Mervine (Mona) Starr, and their minor child, Charlotte Starr; by Lysurgus K. Jones for his minor child, Thella Jones; by Frances Anderson for herself and minor nieces, Rennie, Mary, Willie and Myrtle Steele, and her minor nephew, Joe Steele; by Claude Steele for herself; by Abbie E. Williams for herself and

minor child, Dorothy B. Williams, and minor brothers, Marion and Cretwell Montgomery, and minor sisters, Eva, Ethel, Ruth and Hart Montgomery, thereafter, on June 14, 1902, there was filed with the Commission an affidavit showing the birth, on August 3, 1901, of Major J. Williams, son of the applicant, Abbie B. Williams; and by Cornelia Martin for herself.

THE EVIDENCE IN THIS CASE SHOWS: That the applicants Jack and Charley Starr and Frances Anderson, claim the right to enrollment as Cherokee Freedmen by virtue of their compliance with the provisions of Article IX of the Treaty of 1866, and that all the other applicants herein claim the right to Cherokee freedman citizenship as follows: Peggie Grinnett, Lizzie, Eddie, Elijah and Charlotte Starr and Thella Jones, as descendants of the applicant Jack Starr, and one Charlotte Starr, deceased; Morning (Mona) and Charlotte Starr, Roxie, Mary, Joe, Willie, Myrtle and Claude Steele, as descendants of one Rachel Steele, nee Adair, deceased; Abbie B., Dorothy B. and Major J. Williams, Marion, Eva, Ethel, Cretwell, Ruth and Hart Montgomery, as descendants of Julia Montgomery, nee Adair, deceased; and Cornelia Martin as a descendant of John and Charlotte Curry, both deceased. It is alleged that all of said dead ancestors enumerated in this paragraph, complied with the said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

- (1) That the applicants Jack and Charley Starr, and Frances Anderson, and the said Charlotte Starr, deceased, Rachel Steele, deceased, Julia Montgomery, deceased, and John and Charlotte Curry, both deceased, were slaves of Cherokee citizens at the commencement of the rebellion, and were taken from the Cherokee Nation during said rebellion. And that all the applicants herein except the three last above named, were born since the commencement of the said rebellion.
- (2) That the applicants Peggie Grinnett and Lizzie, Eddie and Elijah Starr, and one Mattie Jones, nee Starr, now deceased, are children of the said applicant, Jack Starr, and Charlotte Starr, deceased.
- (3) That the applicants Morning (Mona) Starr and Roxie, Mary, Joe, Willie, Myrtle and Claude Steele, are children of the said Rachel Steele, deceased, and one Harry Steele, a non-citizen of the Cherokee Nation; that the applicants Abbie B. Williams and Marion, Eva, Ethel, Cretwell, Ruth and Hart Montgomery, are children of the said Julia Montgomery, deceased,

and one Henry Montgomery, a non-citizen of the Cherokee Nation; that the applicant, Cornelia Martin, is a daughter of the said John and Charlotte Curry, both deceased; and that the minor applicant, Charlotte Starr, is a child of the said applicants, Elijah and Merning (Mema) Starr; that the applicant Thella Jones, is a child of the said Mattie Jones, nee Starr, deceased, and one Lycurgus K. Jones, a non-citizen of the Cherokee Nation; and that the minor applicants, Dorothy B. and Major L. Williams, are children of the said applicant, Abbie E. Williams and one Jesse D. Williams, a non-citizen of the Cherokee Nation.

- (4) That none of the applicants herein possess any rights to enrollment as Cherokee citizens other than as above indicated, and that none of said applicants nor any ancestor through whom by any possibility they might obtain rights to Cherokee citizenship, can be identified on the Cherokee authenticated tribal roll of 1880, or the Cherokee census roll of 1896.

It is therefore considered that in order to properly adjudicate these applicants' rights to Cherokee freedman citizenship, as of September 1, 1902, the primary questions presented for determination are:

Did Jack and Charley Starr and Frances Anderson, and the said Charlotte Starr, deceased, Rachel Steele, deceased, Julia Montgomery, deceased, and John and Charlotte Curry, both deceased, or either of them, return to the Cherokee Nation after the rebellion, and become domiciled citizens thereof, within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation?

JACK STARR, applicant, appeared before the Commission on May 31, 1901, at Chelsea, Indian Territory, and testified as follows: I am about 66 years old, and my postoffice is Centralia. My first wife was named Charlotte Starr, nee Whitmire. She died about twenty years ago. I have lived in the Cherokee Nation ever since I can recollect. During the war I engaged as teamster with the First Indian Regiment, and went north to Kansas with it. We stayed for a while about twelve miles this side of Fort Scott and from there went to the Arkansas-Missouri line, and later returned to Fort Gibson where we disbanded at the close of the rebellion in 1865. The following October I went up in Kansas where

my wife was, and worked "around Fort Scott for a while till I got myself a plug of a team, and came back to the Nation here". I brought my wife and children with me and we reached the Cherokee Nation and located on Big Creek, Coowasseewee District, "about the first of September or last of August" 1866, and I have since continuously lived on the same place. I returned to this country with Dave Mayes, Sam and Jesse Whitmire, Berry Ward and Caesar Smith. Aaron Wright (Whitmire), Lewis Wright, (Whitmire), Mike Sanders, Sam Webber and Harry Still, with their families, were living there on Big Creek when we arrived. These people, except Harry Still, had houses built, and all had in small patches of corn when we reached the Cherokee Nation. I did not get on the '80 Roll simply because the Cherokees would not put me on.

SAM WEBBER, in behalf of applicant, appeared before the Commission on June 6, 1901, at Chelsea, Indian Territory, and testified as follows: I am 56 years old and my postoffice is Nowata. I know Jack Starr. He came to the Cherokee Nation after the rebellion in the fall of '66, just a few days after we moved, and settled there by us, where he has since continuously lived. I don't know why he did not get on the '80 roll. I had no corn patch when he arrived, and did not have one till the next year, 1867. I first came to the Cherokee Nation, after the rebellion, in July, '66, and went back and moved down that fall. Uncle Dave Mayes, Santa Ann Hivens and Caesar Smith, came here with Jack Starr, when he moved here in '66. I have seen Jack Starr vote in the Cherokee Nation but he has always been a disputed citizen. Quite a number of disputed citizens have farms up in the Big Creek country. I am on the 1880 roll as an adopted colored.

LEWIS WHITMIRE, in behalf of applicant, same date and place, testified as follows: I am about 62 years old, my postoffice is Hayden, and I have lived in the Cherokee Nation all my life. I know the applicant Jack Starr, and think I know when he returned to the Cherokee Nation after the war. I first saw him when he moved on Big Creek in the fall of '66, and to the best of my knowledge he has ever since lived there. I don't know why he is not on the '80 roll. I know he has always been a disputed citizen. I know he came here in '66 because every body said it was '66. I don't know what year the Wallace roll was made. I am on the '80 roll but don't know what year that was. I think the Kern-Clifton roll was made in 1896. I have never before testified at any time for Jack Starr when he was trying to get on the roll, but have always known as much about his citizenship as I do now. I proved my rights to Cherokee citizenship before the Chambers Court in 1878. I do not know whether Jack Starr ever went before that Court to prove his citizenship or not.

JACK STARR, applicant, recalled, testified: I went before the Daniels Court for the purpose of proving my rights to citizenship but "they laughed at us and said for us to go back and go to work". I did not go before the Chambers Court.

MOSES WHITMIRE, in behalf of applicants, same date and place, testified as follows: I am about 75 years old. My postoffice is Hayden, and I have lived in the Cherokee Nation all my life. I am on the roll of 1880. Jack Starr, Sam Webber and myself, among others, went before the Daniels Court to prove our rights to Cherokee citizenship, but they would have nothing to do with us. I am related to Joshua Whitmire, but don't know what Court admitted him. I don't remember whether or not Johnson Webber was along when we went before the Daniels Court. I was admitted to citizenship by the Chambers Court. ("Docket of Doubtful cases for Citizenship tried in 1871", which was the Daniels Court, said Docket being in the possession of this office, shows that the Daniels Court decided that Sam Webber and family and Johnson Webber and family, were entitled to Cherokee freedman citizenship).

HARRY STILL, in behalf of applicants, appeared before the Commission on June 24, 1901, at Nowata, Indian Territory, and testified as follows: I am 54 years old, my postoffice is Hayden, and I am a recognized citizen of the Cherokee Nation. I know Jack Starr and his son Charley Starr. I first saw Jack Starr, after the rebellion, on Big Creek, Cherokee Nation, in November, 1866.

CHARLEY STARR, applicant, appeared before the Commission on June 24, 1901, at Nowata, Indian Territory, and testified as follows: I was born in '61 and my postoffice is Wimer, Cooweescoowee District. My father is named Jack Starr, and my mother, now deceased, was named Charlotte Mayes. I was born in the Cherokee Nation and have lived on Big Creek ever since I can recollect. I have never been in Kansas that I know of.

ELIJAH STARR, applicant, appeared before the Commission on June 27, 1901, at Nowata, Indian Territory, and testified as follows: I am 26 years old and my postoffice is Centralia, Cooweescoowee District. My wife is named Morning Starr, she is about 23 years old and is a daughter of Harry and Rachel Steele, deceased. We have lived in the Cherokee Nation all our lives.

LIZZIE STARR, applicant, appeared before the Commission on June 7, 1901, at Chelsea, Indian Territory, and testified as follows: I am about 35 years old, my postoffice is Ruby, Cooweescoowee District. I was born and raised in the Cherokee Nation.

LEWIS WHITMIRE, in behalf of this applicant, same date and place, testified that he had known her since birth, and that she had lived in the Cherokee Nation all her life.

SAM W. B. B. in behalf of this applicant, same date and place, corroborated Lewis Whitmire's testimony, and further testified that her father and mother, Jack and Charlotte Starr, left the Cherokee Nation during the rebellion and returned thereto a few days behind him, and that he (Sam Webber) " got back in the first part of April '66". Also that Jack Starr on his return to the Cherokee Nation preceded Abraham Ward "not quite two months". (In C. F. D. 607 - now R 283- the Commission to the Five Civilized Tribes found that the said Abraham Ward did not return to the Cherokee Nation after the rebellion within the time specified in the Whitmire decree, the evidence in said case indicating that he was living in Kansas as late as the fall of 1869, and its said decision was duly affirmed by the Department).

EDDIE STARR, applicant, appeared before the Commission on June 27, 1901, at Nowata Indian Territory, and testified as follows: I am 29 years old and my postoffice is Centralia, Cooweescoowee District. I was born on Big Creek, and have lived in the Cherokee Nation all my life.

HENDERSON GRIMMETT, in behalf of applicant, Peggie Grismett, appeared before the Commission on June 28, 1901, at Nowata, Indian Territory, and testified as follows: I am 37 years old, and my postoffice is Ruby, Cooweescoowee District. I apply for the enrollment of my wife, Peggie Grismett, who is about 35 years old. I have known my wife since she was a small girl, and so far as I know she has lived in the Cherokee Nation all her life.

LYCURGUS K. JONES, in behalf of the applicant Thella Jones, appeared before the Commission on October 18, 1901, at Vinita, Indian Territory, and testified as follows: I am about 35 years old, my postoffice is Centralia, Cooweescoowee District. I apply for the enrollment of my daughter, Thella Jones, aged ten years. Her mother's name was Mattie Jones, and, if living, she would be about 32 years old.

FRANCIS ANDERSON, applicant, appeared before the Commission on June 7, 1901, at Chelsea, Indian Territory, and testified as follows: I am 56 years old and my postoffice is Chelsea, Cooweescoowee District. The children included in my application are those of my deceased sister. We returned from Kansas to the Cherokee Nation, after the rebellion "along about September or October 1866", and since our return I have made my home in the Cherokee Nation. Since my return in '66 I have been out "to Oklahoma nursing, and then I went to Colorado on some business, and then I went to Eureka Springs (Arkansas) for the benefit of the waters". I have also been back to Kansas. My father was named Joe Curry, he died when I was small. My mother was named

Polly Adair, she has been dead a long time. My first husband was named Carl Landrum, we were married in Kansas in 1866, and he is now dead. Rachel Steele, the mother of the children for whom I apply, was my half-sister, we had the same mother. Her father was named Martin Adair. He has been dead a long time. My stepfather and mother, Martin and Polly Adair, and my half-sisters, Rachel, Julia and Nancy Adair, and myself, composed a crowd that returned from Kansas to the Cherokee Nation in 1866. Upon our return we first went to Cabin Creek, I do not know what part, but think it was near Rock Creek. Uncle Dave French was camped near us, and the day we arrived or the next day, we met Mr. Sam Webber not far from where the old military road crosses Cabin Creek. I think he was then located in the Cherokee Nation, and was on his way back north. We went from Rock Creek to Grand River, near the mouth of Spavinaw, and stayed there quite a while.

DAVID FRENCH, in behalf of applicants, Frances Anderson et al., same date and place, testified as follows: I am 72 years old, my postoffice is Lenapah. I moved from Tennessee to the Cherokee Nation in the spring of '39, and have continuously lived in the Cherokee Nation since the war closed. I know the applicant, Frances Anderson, also knew her stepfather and mother, Martin and Polly Adair, and sisters, Julia, Nancy and Rachel Adair. Julia married a Montgomery; Rachel married a Steele, and Nancy is now named Tipps. I first saw this family in the Cherokee Nation after the rebellion, "late in the fall of '66". I and my brother were on our way from a point on Pryor Creek to Neosho Falls, Kansas, after our people, and met them on the military road near where it crosses Cabin Creek. Frances Anderson's husband was also a member of this party. I was not located in the Cherokee Nation at that time.

SAM WEBBER, in behalf of the applicants, Frances Anderson et al., same date and place, testified as follows: I am about 58 years old, my postoffice is Nowata. I was born in the Cherokee Nation, and have continuously lived here since '66. I know the applicant, Frances Anderson, also knew her stepfather and mother, Martin and Polly Adair, and her sisters, Julia, Nancy and Rachel Adair. I saw these people on the military road near Cabin Creek, along late in the summer or early part of the fall of '66, as we were going to Kansas after our families. We had started on this trip to Kansas from a point on Big Creek in the neighborhood of where I now reside. The neighborhood of which I speak is about fifteen or twenty miles a little west of north of here (Chelsea). We met this party where the military road from Fort Gibson to Fort Scott crosses Cabin Creek, about fifteen or twenty miles northeast (southeast) from here, and about thirty-five miles southeast from the point we started from on Big Creek. The military road run due east from where we lived on Big Creek, but we knew no other way to get to it, and then on to Kansas, than the way I have described. In coming to this country we had made a trail from the military road to where we located on Big Creek,

and upon our return to Kansas we followed the trail back to the big road.

FRANCIS ANDERSON, applicant, appeared before the Commission on September 23, 1903, at Vinita, Indian Territory, and testified as follows: I am about 58 years old and my postoffice is Chelsea. John Adair (or Curry) and Uncle Lew Martin and others that I cannot now remember, were along when we returned to the Cherokee Nation in 1866. "I know Uncle Dave French, but they was ahead of us a day or two, and Uncle Sam Webber, and really if I was just to try I couldn't tell you all of them." We first came to Rock Creek, and found Uncle Dave French living there and I think the Lynch's also lived in that neighborhood, but not right on Rock Creek. I had a brother named John Curry, he died at Wichita, Kansas, but I do not know what year. I don't know what year this is, and don't know what year the Kern-Clifton roll was made, I only know the years when I am told them. My mother, Polly Adair, died and was buried in the bottom, close to Grand River, near the mouth of Spavinaw. I don't know on whose place it is now, but think it belonged to the Cherokee Nation at that time. My father died at the same place, and the both died of the smallpox. I don't know what year they died, nor how long after the war it was. I don't know a young man by the name of Harry E. Kelly, and never saw him at Ottumwa, Kansas. My father and mother never lived on the Kelly farm in Kansas, and my mother is not buried at Ottumwa, Kansas. Uncle Sandy Bean, Tobe Bean and Arthur Bean lived in our neighborhood when my father and mother died, and if given time I can bring witnesses to prove that they died and are buried as I have testified. I never was in, saw, nor heard tell of Ottumwa, Kansas, in my life. We did come through Burlington, Kansas, on our way from Fort Scott to the Cherokee Nation. (Burlington, Kansas, is twenty-five miles north and fifty-five miles west- due northwest- from Fort Scott, Kansas. The point in the Cherokee Nation where this applicant claims to have located is twenty-two miles west and ninety-seven miles south from Fort Scott, Kansas, and in 1866 the military road between Fort Scott and Fort Gibson, Indian Territory, ran due south from Fort Scott to the Kansas-Indian Territory line, and then in a southwesterly direction to the immediate vicinity in which said applicant claims to have lived after her return in 1866). The winter of '66 we lived on Grand River, near the mouth of Spavinaw. Uncle Sandy Bean, Al and Crap Lynch were our neighbors the first winter we were here. We lived about a quarter of a mile from Uncle Sandy Bean, and after my mother's death I lived right in the house with Uncle Sandy. My sister Rachel got acquainted with Harry Steele on Grand River, in the Nation. He came down there and took her away and later they returned. They afterwards kept house on Big Creek. I saw Cherokee citizens in that part

of the country once in a while, but do not know the names of any that lived near our place. I have been living at Chelsea about twenty years. I was married the first time at Washington Adair's, that was before the war. My husband, Carl Landrum came back with me after the rebellion and later died at Ottumwa, Kansas, not a great while after the war. All my mother's children except me, lived with her after our return to the Cherokee Nation, until she died. My sister Rachel's eldest child, Fannie, must be about 25 years old now. (The records of this office fail to show that application has ever been made for the enrollment of Fannie). My mother and father died when every body was having the smallpox (about 1882 or 1883). Rachel was not married when our mother died. My mother and father did not die, nor were they buried at Ottumwa, Kansas. I do not know whose place my mother is buried on; she is not buried in a grave-yard. "Q. According to the schedule of the ages of these three children, Roxie was born in 1862, during the year of the smallpox, and Rachel Steele, her mother, must have had three children prior to that time, but you say that her mother died down here in the Cherokee Nation, and that Rachel was living with her, and single and unmarried, how do you account for that?-- Ans. I don't know, but she was."

MRS. E. N. WALKER, in behalf of Cherokee Nation, appeared before the Commission on April 11, 1902, at Muskogee, Indian Territory, and testified as follows: I will be 77 years old my next birthday, I am a Cherokee by blood and my postoffice is Fort Gibson, Indian Territory. I have known the applicant, Frances Anderson, since she was a baby, also knew her mother, Polly. At the commencement of the rebellion Frances belonged to my sister, Dr. Adair's wife, and Polly belonged to my mother. I left the Cherokee Nation in 1862, and returned in 1866, and have been living here ever since. I first saw the applicant, Frances Anderson, "about the year 1880" at the Vinita fair. She inquired about the folks, and said "she had not settled yet", that "she had come from Kansas", and "had not been here very long". "She did not say when she had come in, nor anything, she just said she had not been here very long."

CLAUDE STEELE, applicant, appeared before the Commission on June 11, 1901, at Chelsea, Indian Territory, and testified as follows: I am 21 years old, and my postoffice is Chelsea. I was born on Big Creek, and have lived in the Cherokee Nation since birth. All my brothers and sisters were born on Big Creek.

ABBIE ROMA WILLIAMS: applicant, same date and place, testified as follows: I am 18 years old, and my postoffice is Chelsea, Osawatomie District, Cherokee Nation. I have lived in the Cherokee Nation "all my life most nigh, except when I was out at school" at St. Paul, Kansas,--"six months one time, ten months another."

CORNELIA MARTIN, applicant, appeared before the Commission on June 5, 1901, at Chelsea, Indian Territory, and testified as follows: I am about 20 years old, and at present my postoffice is Vinita. My father was named John Curry, or John Adair, and my mother was named Charlotte Vann. My father and mother have been dead about eighteen years. I am a full sister to Mary Harris, Stella Martin and Harrison Curry. I was born on Grand River, so I am told, and lived there till my mother died. I have never been recognized as a citizen of the Cherokee Nation, am on no Cherokee rolls, and have never drawn any money from said Nation.

The following testimony was taken in re application of Mary Harris, et al., for enrollment as Cherokee Freedmen, case No. D. 528, and was ordered filed in re application of Cornelia Martin et al., supra.

Mary Harris, applicant (in C.F.D. 528), appeared before the Commission on June 5, 1901, at Chelsea, Indian Territory, and testified as follows: I am about 33 years old, my postoffice is Vinita, and I live in Cooweescoowee District. My father and mother's slave names were John Adair and Charlotte Vann, but I always knew them as John and Charlotte Curry. I was born in the Cherokee Nation, and have lived at Vinita the last twelve years. Prior to that time I lived for a while on Grand River and Panther Creek. I am a sister of Joe and Harrison Curry and Cornelia and Stella Martin. I also have, or had, a sister named Anna Williams "that we don't know of being dead". (Six days later the said Anna Williams applied for enrollment as a Cherokee Freedman, before the Commission at Chelsea, Indian Territory, and testified that Chelsea was her postoffice, and that she had lived in the Cherokee Nation since birth). I am the oldest child in our family, and when I can first remember I was living on Grand River, and continuously lived in the Cherokee Nation till about eighteen years ago when "I went to my grandmother's in Kansas, Anderson County, near Garnett." My mother died of smallpox on Grand River about eighteen years ago. From my earliest recollection till I was about seventeen we lived on Grand River, I think. Our nearest neighbors during that time, were Art Williams and Millie Frye. I think a man named Buffington also lived near us, but don't remember of any one living in that vicinity by the name of Watt West. I came to Vinita from Panther Creek, where I had lived a year or two. I moved to Panther Creek from Wichita, Kansas. My husband's name is Nelson Harris. We were married at Kingman, Kansas. My husband has been living in Kansas, but I have not lived there since we were married. My children were all born in the Cherokee Nation, and were brought up by my aunt, Frances Anderson. I do not know that my father and mother did much of anything when we lived on Lynch's Prairie (Grand River). My mother lived with her grandmother, "Granny Charlotte." If my mother's grandmother had any other name I never heard of it.

MILLIE PRUE, in behalf of Mary Harris, same date and place, testified as follows: I am 64 years old, and my postoffice is Vinita. I live on Grand River, and have known the applicant Mary Harris since she was a small girl. I also know her father and mother, John and Charlotte Curry. They were taken out of the Cherokee Nation during the rebellion, and I first saw them in the Cherokee Nation after the rebellion, about eighteen years ago-- "the year we had the smallpox" (1833). "They just came out on the river to see their grandfather. Charlotte came there to see old man Adams, and they quarantined them in there, and her (Charlotte's) father and mother died with the smallpox and her grandfather and grandmother died, and just left the children there alone; that is all I knew about it."

JOHN REESE, in behalf of Mary Harris, same date and place, testified as follows: I am about 59 or 60 years old, I live in Coconino District and my postoffice is Coffeyville. I knew John Curry, father of Mary Harris. I first met him, during the war, on Wolf Creek, Cherokee Nation, and next saw him on the old John Alberty place on Pryor Creek, when he stayed all night with us, during the summer or fall of 1866. I have never seen him since.

FRED MARTIN, in behalf of Mary Harris, same date and place, testified as follows: I am 43 years old, and my postoffice is Spavinaw. I knew the applicant, Mary Harris. I first saw her father just after Christmas in the winter of '66, when "he stayed two or three days at my house, we were living on the John McNair place." He at that time said he was going to Fort Gibson. I never saw him again. I guess I was eight years old in '66.

ROBERT BOWEN, in behalf of Cherokee Nation (Mary Harris, case No. D 523), appeared before the Commission on October 29, 1901, at Vinita, Indian Territory, and testified as follows: I am 58 years old and my postoffice is Ottumwa, Coffey County, Kansas, where I have lived about forty-six years. I was acquainted, in Kansas, with John and Charlotte Curry. They had five children, named Mary, Joe, Neely, Teala and Harrison Elder Curry. I first became acquainted with this family in 1866, and at that time "they lived in the southwest corner of the town of Ottumwa, right adjoining my place", where they continued to live about two years, when they moved over on Harrison Kelly's place, and lived there till 1873, and then "moved to a homestead they taken on the prairie". This family "lived there from '68 to '84. Mrs Curry died in the fall of '84, there, and then John and the children were around there a year or two longer, I don't know how long, I can't say positive, but Mrs. Curry died in November, '84. I was at the burying, and then I saw since then on the gravestone it was in '84. I have been to her grave and saw it there before I started."

I saw this family as often as once a week from the time they came there till they went away. Mary was the eldest child in the family. She was born at Ottumwa in the fall of '60, and all the other children were born at or near there.

HARRY H. KELLY, in behalf of Cherokee Nation (Mary Harris case No. D 528), appeared before the Commission on May 16, 1902, at Muskogee, Indian Territory, and testified as follows: I have been living at Fort Smith, Arkansas, fifteen years. "I was born at Ottumwa, Kansas, and lived there till I was about eighteen years old". I knew a colored man in Kansas named John Curry (Frances Andersen's brother) also knew his wife, Charlotte. I remember them as early as 1866, I think as early as '66. I can not quite fix the year they first came on my father's farm to live, but I have a distinct recollection of their being there in 1866, when I left on a trip to Ohio, and was driven to the railroad station, fifty miles away, by the old Martin Adair, sometimes called Martin Adair, who was the husband of John Curry's (and Frances Andersen's) mother, Polly Adair. Martin and Polly Adair also lived on our place. John Curry lived on our place from 1866 to 1872 or '73, when he homesteaded a piece of land about two miles from our house, to which he moved, and where he lived till his wife, Charlotte, died in '84. John Curry remained around there for a year or two after his wife's death, and then disappeared, and I have since heard that he was dead. John and Charlotte Curry had some children named "Mary (Harris) and Teenie and Joe and Harrison and another one, I can't recollect the name". I don't know where Mary was born, but all the others were born in Kansas. "The first recollection I have of Martin and Polly (Holin or Adair) and their family, was moving them out of the bottom, time of the flood in '66; they were clearing land for my father and the overflow came, and he brought them up to the house, out of the flood". Polly Adair was the mother of John Curry and had other children, one named Frances (Anderson), "who used to come there occasionally, and one named Nancy (now Tipps) and Nathan, (deceased), and Julia (Montgomery, deceased), and Rachel (Steele, deceased). Rachel married a darkey named Harry Steele, I do not know who Frances married. I have heard who Julia married, but cannot recollect the name now. Martin and Polly lived around there till Polly died, sometime between '69 and '71. "I remember them being there when I came home from Ohio in the fall of '66, and she died before I went to Ohio to school in the fall of '71." Martin Adair went off for a time after his wife's death, but returned and died, and was buried on our farm in 1874. I do not know where Frances lived during the time I testify of. "She just came to visit, these Curry's lived right in our yard, or right close to it, and she came there on visits to her brother and her half-sisters, who worked in our house". I was about six and one-half years old when I went to Ohio in 1866. I left Kansas in 1867. My father was named Harrison Kelly. After their marriage Rachel and Harry Steele "lived on our place, there right by our house, worked for us". They had several children born there, but I

do not recollect their names now. Rachel continuously lived there till her mother's death, but after that I don't remember her till she came back there about 1875, married to Harry Steele, and then lived there by our house for some five years after that."

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ROBERT BOWEN, in behalf of Cherokee Nation, appeared before the Commission on April 6, 1905, at Muskogee, Indian Territory, and testified as follows: I am 64 years old, and my post-office is Burlington, Kansas. I at one time knew a colored man named John Curry, also knew his wife, Charlotte. I know the applicant, Cornelia Martin, as Cornelia Curry. I first became acquainted with John Curry in '67, I think it was in August. "He shot a man at Leroy (Kansas) in '65, and he was under arrest, and I met them in the road with him in August, '67". That was at Ottumwa, Kansas. The next October the Curry family moved across the road from me and lived there from '67 till '72, when John Curry having homesteaded a piece of land about two miles north of Ottumwa, they moved out there and lived till about '85. Charlotte died there and was buried in the graveyard at Ottumwa. I know this because I had her buried, and if it is testified that she died and was buried on Grand River, Cherokee Nation, it is a mistake. I saw John Curry often from '67 to '75. "I don't think there was a week I did not see him. We worked together a good deal and I knew that he was never away as long as a week at a time." I knew John Curry's sister Rachel. "Her name was Rachel Steele, she came there in about '66. Martin Bolin was her father." I knew Martin Bolin's wife. Martin Bolin and wife continuously lived in that vicinity from '66 to '80, when Mrs. Bolin and one of the boys died, and then the old man came to Parsons and got the small-pox and came back and died. I attended the funeral of Mrs. Bolin and her son, they were both buried in the cemetery, on the same day, Sunday. I knew John Curry's children, they were named Mary, Cornelia, Joseph, Harrison, Elworth and Christine. They were all born at Ottumwa, Kansas, and attended the schools there. It was reported up there that John Curry died at Wichita, Kansas. I knew Rachel's husband, Harry Steele. "They were said to have been married at Burlington. The last time I was there they had four children. They lived south of Ottumwa and then north of Ottumwa". I think she (Rachel) left there about '80.

ISAAC HOOVER, in behalf of Cherokee Nation, same date and place, testified as follows: I will be 39 years old this coming May, my postoffice is Hartford, Kansas, and I have lived within three miles of Ottumwa, Kansas, all my life. I knew a colored man there by the name of John Curry, also knew his wife, Charlotte. I think they had six children, named Eb, Mary, Cornelia, Joe, Christine and Elwerth. I can first remember this family when

I was about eight or nine years old, and continued to know them till about '85 or '86. Charlotte Curry died there and was buried just two miles south of us. I was at the funeral and burying. I knew this family well. Our houses were within sight and I saw them nearly every day. The children attended the district school. I knew John Curry's half sister, Rachel, she married Harry Steele, and "they lived a mile and a half west of us for a number of years, and then they lived east of us."

J. M. KEYS, in behalf of Cherokee Nation, same date and place, testified as follows: I am 62 years old, and my postoffice is Pryor Creek. I represent the Cherokee Nation in the capacity of marshal in summoning witnesses. In the discharge of my duties I had occasion to visit a cemetery near Ottumwa, Kansas, to search for the grave of Charlotte Curry. In the Bowen cemetery, near Ottumwa, Kansas, I found a grave with the following inscription: "Charlotte, wife of John Curry. Born December 15, 1844, Died November 15, 1884."

C A S E C L O S E D .

The applicant Cornelia Martin, cannot be identified on any Cherokee roll, and, excepting the Wallace and Kern-Clifton rolls, none of the applicants herein can be identified on any rolls of the Cherokee Nation, in the possession of this office.

The evidence in this case indicates that immediately after the close of the rebellion, and prior to the making of the treaty of 1866, the applicant, Jack Starr, was temporarily present in the Cherokee Nation. Under the ruling of the Department in the cases of Spencer Bell (I.T.D. 4176-03), Thomas Hayfield et al. (I.T.D. 6968-04), and Martha Gales (I.T.D. 1880-04) such temporary presence would not be sufficient to satisfy the provisions of Article IX of the treaty of 1866, relative to the establishment of a residence in the Cherokee Nation within the time stipulated in said treaty. Hence, it must be shown that he returned from Kansas to the Cherokee Nation and established his residence therein prior to February 11, 1867.

In re return from Kansas of Jack Starr and family: The applicant, Jack Starr, testifies that after the rebellion he returned from Kansas to the Cherokee Nation in company with Dave Mayes, Sam and Jesse Whitacre, Berry Ward, and Caesar Smith; and that they found Aaron Wright (Whitacre), Lewis Wright (Whitacre), Mike Sanders, Sam Webber and Harry Still, living, with their families, on Big Creek. All of whom, except Harry Still, had

houses built and had in small patches of corn. Sam Webber testifies that the applicant, with his family, arrived on Big Creek in the fall of '66, a few days behind him, and that Dave Mayes, Santa Ann Nivens and Caesar Smith accompanied them.

In connection with this testimony of Jack Starr and Sam Webber, attention is invited to a certified copy, filed herewith, of certain proceedings had before the Commission on Cherokee Citizenship in 1878-9, which held that the said Aaron and Lewis Whitmire were entitled to Cherokee citizenship, indicating that they had complied with the treaty provisions of 1866, and that the said Dave Mayes, Sam and Jesse Whitmire, Berry Ward, Caesar Smith, Santa Ann Nivens and Jack Starr were not entitled to Cherokee citizenship, thereby indicating that they did not comply with said treaty provisions of 1866.

In re witness Harry Still: This witness was admitted to Cherokee citizenship by the Daniels Court in 1871, and for that reason his application for enrollment as a Cherokee freedman has been granted. The Commission to the Five Civilized Tribes, however, found that the said Harry Still did not return to the Cherokee Nation, after the rebellion, within the time specified in the Whitmire decree, and in Departmental letter (I.T.D. 7658-04), its findings of facts were admitted by the Department to be correct. His mother, Mariah Hayden, who returned at the same time, was denied enrollment by the Commission, said decision being approved by the Department.

If, as the applicant, Jack Starr, testifies, Aaron and Lewis Whitmire, Mike Sanders, Sam Webber and Harry Still, were living on Big Creek, with their families, and had erected houses and put in crops, when he, with his family, returned to the Cherokee Nation after the rebellion, they did not arrive in said Nation till subsequent to March, 1867,-- the date found by the Chambers Court, and by the Commission to the Five Civilized Tribes, in numerous cases, as the one when the Webber-Whitmire-Sanders colony of freedmen, with their families, landed in the Cherokee Nation after the rebellion.

In C. F. D. 471, now R 226, the Commission to the Five Civilized Tribes, found in its decision rendered on July 10, 1903, that the said "Berry Ward, now deceased", did not return to the Cherokee Nation, after the rebellion, within the time specified in the Whitmire decree, and on January 4, 1904, (Departmental letter I. T. D. 8978-03), its finding was affirmed by the Department.

In C. F. D. 602, the said Commission found, in its decision rendered on March 5, 1904, that the said "Santa Ann Nivens", did not return to the Cherokee Nation, after the rebellion, within the time specified in the Whitmire decree, and the proceedings in said case were duly forwarded to the Department, where they are now pending.

In C. F. D. 626, the said Commission found, in its decision rendered on June 23, 1905, that one Joseph Smith, son of the said "Caesar Smith", now deceased, who, the evidence shows, returned with his father, did not return to the Cherokee Nation after the rebellion within the time specified in said Whitmire decree, and the proceedings in said case were duly forwarded to the Department, where they are now pending.

In C. F. D. 981, the said Commission found in its decision rendered on April 20, 1905, that one David Hayes, son of the said "Dave Hayes", now deceased, who, the evidence shows, returned with his said father, did not return to the Cherokee Nation after the rebellion within the time specified in said Whitmire decree, and the proceedings in said case were duly forwarded to the Department, where they are now pending.

In C. F. D. 796, now 1379, said Commission, in its decision rendered on January 2, 1904, found that the said "Samuel Whitmire" returned to the Cherokee Nation after the rebellion within the time specified in the Whitmire decree, and on June 27, 1904 (I. T. D. 5036-04), its finding was affirmed by the Department. In this case Samuel Whitmire was granted enrollment on the testimony of Sam. Webber, who testified that Samuel Whitmire returned with them in the fall of 1866-- testimony absolutely false, as can be shown by evidence practically conclusive, subsequently obtained and now in the possession of this office.

The testimony in C. F. D. 213, 214 and 215, shows that the said "Jesse Whitmire" (also known as Riley), is living, but the records of this office fail to show that application has been made for his enrollment as a Cherokee citizen. Sam and Samuel Whitmire, Cases Nos. R 214 and R 215, respectively, sons of the said Jesse Whitmire, born since 1866, were denied enrollment as Cherokee freedmen, by the Commission to the Five Civilized Tribes in its decision rendered on July 10, 1903, and on September 30, 1903 (I. T. D. 6180-03), said decision was affirmed by the Department. The status, however, of the said Jesse Whitmire, seems not to have been considered in the above mentioned decision.

In re return of Frances Anderson to the Cherokee Nation after the rebellion: In connection with Sam Webber's testimony relative to the return of this applicant, attention is invited to a rough map and notes thereon, filed with the record in this case. Frances Anderson insists that Sandy Bean, now deceased, was one of their nearest neighbors when they located on Grand River upon their return to the Cherokee Nation in the fall of 1866. The Daniels Court denied Sandy Bean the right to Cherokee citizenship, on the ground that he returned too late, and he was rejected by the "Commission on (Cherokee Citizenship) of 1878-". In C. F. D. 215, now 1421, Joe Bean, age 58, (May, 1901), son of the said Sandy Bean, testified that after the rebellion he brought his father from Kansas to the Cherokee Nation in the fall of 1867. In C. F. D. 200 (Thomas Mayfield et al.), Walter A. West testified that, among others, Thomas Mayfield and "Sandy Bean", with

their families, returned to the Cherokee Nation in "February 1869." It was found by said Commission that the said Thomas Mayfield did not return to the Cherokee Nation after the rebellion within the time specified in the Whitmire decree, and its finding was approved by the Department.

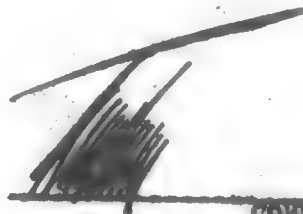
Frances Anderson further testifies that her stepfather and mother, Martin and Polly Adair, (also known as Bolin), died of the smallpox, in the Cherokee Nation, about 1883, and are buried near the mouth of Spavinaw on Grand River. This is contradicted by testimony practically conclusive, of several witnesses from Kansas, introduced by the Cherokee Nation; and the testimony of Millie Fry, witness for Mary Harris, indicates that it was Charlotte Curry's father and mother and grandfather and grandmother who died and were buried at the time and place testified to by the applicant. On her first appearance before the Commission this applicant testifies that as she was coming to the Cherokee Nation in 1866, she met Dave French and Sam Webber on their way back to Kansas. On her second appearance before the Commission she testified that she followed the said Dave French and Sam Webber to the Cherokee Nation, arriving a few days behind them. She also testifies that Lew Martin was a member of the company returning with her in 1866.

In C. F. D. 289, the Commission to the Five Civilized Tribes, in its decision rendered on May 13, 1905, found that the said Lewis Martin did not return to the Cherokee Nation after the rebellion within the time specified in the Whitmire decree, and the proceedings in this case were duly forwarded to the Department, where they are now pending.

The little weight to be given the testimony of Sam Webber has been commented on by this office in numerous cases, and as to the witness Dave French, attention is invited to the cases of Wash Nave, C. F. D. 815, and Frank Whitmire, C. F. D. 956, to show that his testimony is of little, if any value.

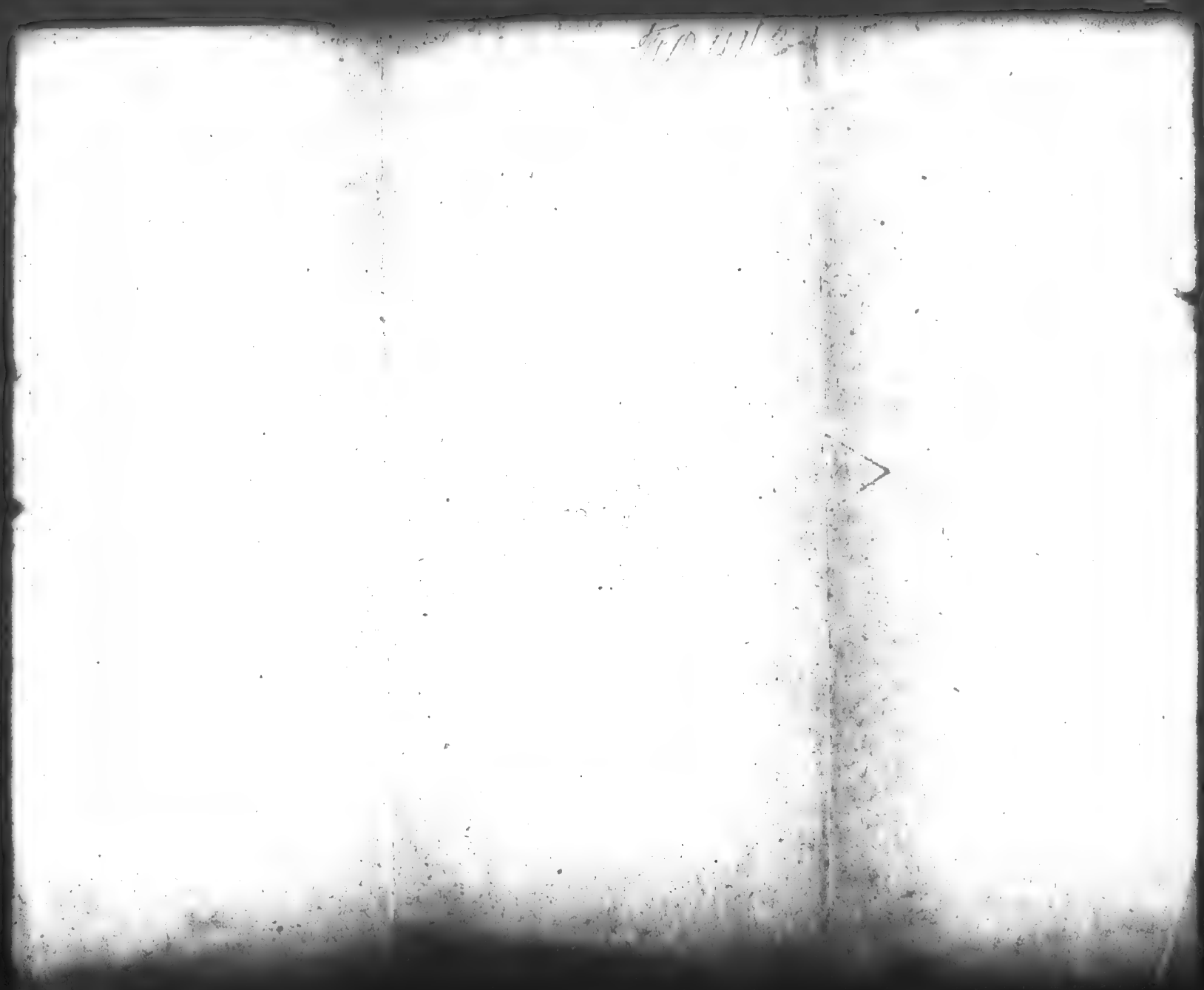
FINDINGS OF FACT AND CONCLUSION: It is considered that the evidence in this case shows that neither the said Jack Starr, Charley Starr, Charlotte Starr, deceased, Rachel Steele, deceased, Julia Montgomery, deceased, Frances Anderson, nor John and Charlotte Curry, both deceased, became domiciled citizens of the Cherokee Nation within the time specified in the Whitmire decree; and that all the applicants herein except the said Jack and Charley Starr and Frances Anderson, were born since the commencement of the rebellion, are lineal descendants of the said applicants, Jack and Charley Starr, and of the said Charlotte Starr, deceased, Rachel Steele, deceased, Julia Montgomery, deceased, and John and Charlotte Curry, both deceased, and possess no rights to enrollment as Cherokee Freedmen other than as such descendants.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section twenty-one of the Act of Congress approved June 28, 1896 (30 Stat., 496), Jack Starr, Charley Starr, Peggie Grumett, Lissie Starr, Eddie Starr, Elijah Starr, Morning (Mona) Starr, Charlotte Starr, Thelma Jones, Frances Anderson, Maxie Steele, Mary Steele, Joe Steele, Willie Steele, Myrtle Steele and Claude Steele, Abbie E. Williams, Dorothy E. Williams, and Major L. Williams, Marion Montgomery, Eva Montgomery, Ethel Montgomery, Gretwell Montgomery, Ruth Montgomery, and Mart Montgomery and Gertrude Martin, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.



COMMISSIONER

Dated at Muskogee, Indian Territory,
this SEP 30 1905



NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Jack Starr,
Centralia, I.T.
Cherokee F-D-443
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Muskogee, Indian Territory, September 30, 1905

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the consolidated applications of Jack Starr, et al., for enrollment as Cherokee Freedmen, including the decision of the Commissioner to the Five Civilized Tribes dated September 30, 1905, rejecting the applications of Jack Starr, Charley Starr, Peggie Grinnett, Lizzie Starr, Eddie Starr, Elijah Starr, Morning (Mona) Starr, Charlotte Starr, Thella Jones, Frances Anderson, Roxy Steele, Mary Steele, Joe Steele, Willie Steele, Myrtle Steele, Claude Steele, Abbie E. Williams, Dorothy B. Williams, Marion Montgomery, Eva Montgomery, Ethel Montgomery, Cretwell Montgomery, Ruth Montgomery, Hart Montgomery, Major L. Williams and Cornelia Martin, for enrollment as such.

In connection with the decision of this office in the consolidated case herewith transmitted, the Department's

Secretary--2.

attention is invited to the consolidated case of Mary Harris, et al., including the cases of Mary Harris, et al., Cherokee Freedman 1233, formerly Cherokee Freedmen D 528, Joseph Curry, Cherokee Freedman 1234, formerly Cherokee Freedman D 531, Ostella Martin, et al., Cherokee Freedman 1235, formerly Cherokee Freedman D 532, and Harrison Curry, Cherokee Freedman 1236, formerly Cherokee Freedman D 533, wherein it was found by the Commission to the Five Civilized Tribes, in its decision rendered on July 10, 1903, that Mary Harris, Irene Harris, Olive Harris, Rheta Harris, Joseph Curry, Ostella Martin, Ira Martin, Cecil Martin, Roy Martin, Myrrh E. Martin, and Harrison Curry, all of whom neither claimed nor possessed any rights to Cherokee citizenship other than as descendants of John and Charlotte Curry, both deceased, were entitled to enrollment as Cherokee freedmen, said finding being concurred in by the Commissioner of Indian Affairs, and affirmed by the Department on November 12, 1903 (Departmental letter I.T.D. 7616-03). Thereafter the names of the eleven last above named applicants were placed upon the Cherokee Freedman schedule forwarded to the Department on November 2, 1904, and they are now included in a partial roll of Cherokee Freedmen approved by the Secretary of the Interior on November 18, 1904, opposite Nos. 3439 to 3449, inclusive.

Secretary --3.

It will be noted that the rights to Cherokee freedman citizenship of the applicants included in the consolidated case of Mary Harris, et al., supra., are identical with those of the applicant, Cornelia Martin, case NO. D 534, said case being included in the consolidated case of Jack Starr, et al., transmitted herewith, all said applicants claiming as descendants of John and Charlotte Curry, both deceased, and who, it is alleged, complied with the provisions of Article IX of the Treaty of 1866.

It is respectfully submitted that the evidence in the consolidated case of Jack Starr, et al., transmitted herewith, shows that neither the said John Curry, deceased, nor the said Charlotte Curry deceased, returned to the Cherokee Nation after the rebellion, and established a residence therein, consequently, they did not comply with the provisions of Article IX of the treaty of 1866, and all applicants obtaining rights to Cherokee freedman citizenship only through them, must necessarily be denied.

It is, therefore, respectfully recommended that, if the Department affirms the decision of this office in the consolidated case of Jack Starr, et al., which is herewith transmitted, that the consolidated case of Mary Harris,

Secretary-4-

et al., which includes the case of Mary Harris, et al., Cherokee Freedman 1233, Joseph Curry, Cherokee Freedman 1234, Ostella Martin et al., Cherokee Freedman 1235, and Harrison Curry, Cherokee Freedman 1236, be reopened and the decision therein enrolling the applicants included in said consolidated case be reversed.

Respectfully,

Through the

Commissioner

Commissioner of Indian Affairs.

Incl. B 101

LMB

Land.
80831-1905.

-COPY-

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. October 17, 1905.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated September 30, 1905, transmitting the record of the application for enrollment as Cherokee Freedmen by Georgia Starr for her husband, Jack Starr; by Hannah Starr for her husband, Charley Starr; by Henderson Grinnett for his wife, Peggie Grinnett; by Lizzie Starr for herself; by Eddie Starr for himself; by Elijah Starr for himself and wife, Morning Starr (Mona) Starr, and their minor child, Charlotte Starr; by Lycurgus K. Jones for his minor child, Thella Jones; by Frances Anderson for herself and minor nieces, Roxie, Mary, Willie, and Myrtle Steele, and her minor Nephew, Joe Steele; by Claude Steele for herself; by Abbie E. Williams for herself and her minor children, Dorothy B. and Major L. Williams and her minor brothers, Marion and Cretwell Montgomery, and minor sisters, Eva, Ethel, Ruth and Hart Montgomery; and by Cornelia Martin for herself.

September 30, 1905, the Commissioner decided adversely to all the applicants.

The record shows that the applicants, Jack and Charley Starr, and Frances Anderson, and Charlotte Starr, deceased, Rachel Steele, deceased, Julia Montgomery, deceased, and John and Charlotte Curry, both deceased, were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and did not return thereto and establish a residence therein on or before February 11, 1867; that the applicants, Peggie Grimmett and Lizzie, Eddie and Elijah Starr, and one Mattie Jones, born Starr, now deceased, are children of the applicant, Jack Starr and Charlotte Starr, deceased; that the applicants, Morning(Mona) Starr, and Rozie, Mary, Joe, Willie, Myrtle and Claude Steele, are children of Rachel Steele, deceased, and one Harry Steele, a non-citizen of the Cherokee Nation; that the applicants, Abbie E. Williams, and Marion, Eva, Ethel, Cretwell, Ruth and Hart Montgomery are children of Julia Montgomery, deceased, and one Henry Montgomery, a non-citizen of the Cherokee Nation; that the applicant, Cornelia Martin, is a daughter of John and Charlotte Curry, both deceased; and that the minor applicant Charlotte Starr, is a child of the applicants, Elijah and Morning(Mona) Starr; that the applicant, Thella Jones, is a child of Mattie Jones, born Starr, deceased, and one Lucurgus K. Jones, a non-citizen of the Cherokee Nation;

and that the minor applicants, Dorothy B. and Major L. Williams, are children of the applicant, Abbie E. Williams and one Jesse D. Williams, a non-citizen of the Cherokee Nation; that none of the applicants possesses any rights to enrollment as Cherokee citizen s other than as above indicated and that none of the applicants, or any ancestor, can be identified on the 1880 authenticated Cherokee roll or the Cherokee Census roll of 1896.

In view of the record the approval of the Commissioner's decision adverse to all the applicants is recommended.

Very respectfully,

C.F. Larrabee,

Acting Commissioner.

M.M.M.)W)

D.C.15055

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DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

I.T.D.13666-1905.

April 25, 1906.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

September 30, 1905, you transmitted the record of proceedings had in the matter of the consolidated applications for enrollment as Cherokee freedmen of Jack Starr, Charley Starr, Peggie Grimmitt, Lizzie Starr, Eddie Starr, Elijah Starr, Morning(Mona) Starr, Charlotte Starr, Thella Jones, Frances Anderson, Roxie Steele, Mary Steele, Joe Steele, Willie Steele, Myrtle Steele, Claude Steele, Abbie E. Williams, Dorothy B. Williams, Major L. Williams, Marion Montgomery, Eva Montgomery, Ethel Montgomery, Cretwell Montgomery, Ruth Montgomery, Hart Montgomery, and Cornelia Martin, including your decision of same date denying said applications.

October 17, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision denying said applications be approved. A Copy of his letter is inclosed.

The Department has carefully considered the evidence submitted with the record in said case and finds no reason to dis-

-2-

turb your decision, which is hereby affirmed.

Respectfully,

Thos. Ryan,

First Assistant Secretary.

1 inclosure.

Cherokee Freedmen
D 443

COPY.

Muskogee, Indian Territory, May 5, 1906

Jack Starr

Centralia, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated September 30, 1905, rejecting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on April 25, 1906.

Respectfully,

SIGNED.

N. T. Deane
Acting Commissioner

LM3

Cherokee Freedmen
D 443

COPY.

Muskogee, Indian Territory, May 8, 1906

Louis T. Brown,
Attorney for Jack Starr, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated September 30, 1905, rejecting the applications for the enrollment of Jack Starr, Charley Starr, Peggie Grinnett, Lizzie Starr, Eddie Starr, Elijah Starr et al., Thella Jones, Frances Anderson et al., Claude Steele, Abbie E. Williams et al., and Cornelia Martin, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 25, 1906.

For your information a copy of Departmental decision referred to is inclosed herewith.

Respectfully,

(SIGNED).

H. C. Steele
Acting Commissioner

LMB

Incl. B-40

Cherokee Freedmen
B 443 et al.

COPY.

Muskogee, Indian Territory, May 8, 1906

Bell, Hastings and Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes rejecting the applications for the enrollment of Jack Starr, Charley Starr, Peggie Grinnett, Lizzie Starr, Edie Starr, Elijah Starr et al., Thella Jones, Frances Anderson et al., Claude Steele, Abbie E. Williams et al., and Cornelia Martin, as Cherokee freedmen, was affirmed by the Secretary of the Interior on April 25, 1906.

For your information a copy of Departmental decision referred to is inclosed herewith.

Respectfully,

IMB

Incl. B-39

W. H. Bell
Acting Commissioner

Muskogee, Indian Territory, May 16, 1906

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of April 25, 1906 (I.T.D. 13666-1906), wherein the decision of the Commissioner to the Five Civilized Tribes denying the application of Jack Starr, et al., for enrollment as Cherokee Freedmen- consolidated cases D 443 et al.- was affirmed by the Department.

In connection therewith the Department's attention is respectfully invited to letter of this office under date of September 30, 1905, transmitting said consolidated case, wherein the Department's attention was called to the consolidated case of Mary Harris, et al., Cherokee Freedman 1233, formerly D 528; Joseph Curry, Cherokee Freedman 1234, formerly D 531; Ostella Martin, et al., Cherokee Freedmen 1238, formerly D 532, and Harrison Curry, Cherokee Freedman 1236, formerly D 533, wherein it was re-

Secretary--2

spectfully recommended that if the Department affirmed the decision of the Commissioner in the consolidated case of Jack Starr, et al., that it reverse the former decision of the Commission to the Five Civilized Tribes in the consolidated case of Mary Harris, et al.

In its letter of April 25, 1906, supra., the Department has evidently overlooked the recommendation of the Commissioner in his letter of September 30, 1905, supra., as no mention was made of Departmental action in the consolidated case of Mary Harris, et al. The Department's attention is again respectfully invited to the Commissioner's letter of September 30, 1905, a copy of which is herewith enclosed for its convenience.

Respectfully,

Through the

Commissioner of Indian Affairs

IMB

Encl. B-61

(Signed) Wm. J. Bell
Acting Commissioner

6. 30443
DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUN 12 1901

[Handwritten signature]

COMMISSIONERS
HENRY L. DAWES
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chelsea, Indian Territory, June 12th, 1901.

Received of the Commission to the Five Civilized Tribes
one copy of the original testimony of May 31st, 1901, in the
matter of the application of Georgia Starr for the enrollment of
her husband as a Freedman of the Cherokee Nation.

Wm W. Mellett

Attorneys for Applicants.

Cherokee F. #D443.

Cher Fr K 891

Trans. from Cher Fr D 446

Cher Fr R 891

446

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JAN 5 1901

ACTING CHIEF

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHULSEA, I.T., MAY 31st, 1901.

In the matter of the application of Celia Chambers for the enrollment of herself, husband, three children and one grandchild as Cherokee Freedmen, said Chambers being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Mellette & Smith, Attorneys for Applicants.
L. B. Bell, Cherokee Representative:

Q What is your name? A Celia Chambers.
Q How old are you? A I count myself near 58 years old.
Q What is your post office? A Hudson.
Q What district do you live in? A Coowesscoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Seven children, three of them.
Q Three of them is of age? A Yes, sir.
Q Four then you have got? A Yes, sir.
Q Are you married? A Yes, sir, Charlie Chambers is my husband.
Q Is he a citizen? A Yes, sir, he is on the 1880 roll.
Q Has he been enrolled? A No, sir, he ain't been enrolled yet.
Q Don't you want to enroll him and yourself and family all together? A Yes, I guess so.
Q Are you on the 1880 roll? A I am on the Wallace and Kern and Clifton.
Q Not on the roll of 1880? A No, sir.
Q What are the names of your children? A The single boy is named Aleck Adair, 20.
Q What is the name of the next child? A Goldy Adair, 18.
Q What is the name of the next one? A Elsie May Adair, 16.
Q How old is Elsie May? A She is 16.
Q Well, now the next child? A That is all, there is three; there is four of age; Elsie May has a child, I have a grandchild.
Q What is the name of the child? A Lela Whitmire.
Q How old is Lela Whitmire? A Nine months.
Q What is the name of the father of Lela Whitmire? A William Whitmire.
Q What is the mother of Lela? A Elsie May.
Q Is she married to Whitmire, A No, sir, he married another girl not long ago.
Q They were never married? A No, sir.
Q Why isn't your name on the roll of 1880? A The Indians didn't put me there.

BY R. SMITH, Attorney for Applicants:

Q How old did you say you were? A I count myself near about 58 I don't really know.
Q Now, who was your mother? A My mother is dead, I never did see her.
Q Were you a slave yourself? A Yes, sir.
Q Who was your owner? A Jeff Parks.
Q Was he a Cherokee Indian? A Yes, sir.
Q Where did he live? A Lived on Grand river, 12 east of Grand river in, I have forgot what district.
Q Was it in the Cherokee Nation? A Yes, sir.
Q Where were you when the Civil War commenced? A I was right there at home.
Q Did you go out of the Nation during the war? A Yes, sir, I went out with the soldiers.
Q Where did you go to during the war? A I was cook for 'em; stayed with 'em and cooked for the federals.
Q Well, where did you go to, if you know? A After I went home.

Celia Chambers, et al.--2.

- Q No, when you were out of the Nation where were you? A Why, I went up to Fort Scott.
- Q What time did you come back to the Cherokee Nation after the war? A I come back in the fall of '66.
- Q Did you have any children at that time; at the time you came back here in 1866? A I was married out in Kansas and stayed there one year and come back and didn't have any children.
- Q Where were your children born? A On Big Creek.
- Q In the Cherokee Nation? A Yes, sir.
- Q Who were they, give their names? A Ben Adair, Josie Adair, Abbie Adair, Peter, Goldy and Elsie May Adair, there was seven of them.
- Q Were they all born in the Cherokee Nation? A Yes, sir; their father is dead.
- Q Where do you live now? A Live up on Gib Creek.
- Q How long have you lived there? A I have lived there ever since I have been here.
- Q Have you lived in the Cherokee Nation ever since you came back here in 1866? A Yes, sir; never went to Kansas to do a day's work in my life.
- Q Who is your husband at this time? A Charley Chambers.
- Q Where is your husband Adair? A He is dead.
- Q When did he die? A He has been dead about 19 years I guess.
- Q Are all of your daughters married? A Yes, sir, all married ones sitting back there.
- Q What are their names? A Josie Brown.
- Q What is the other's ones names? A Abbie Rowe and the boy is ~~her~~ names Ben Adair.
- Q Are you on the Kerns-Clifton roll? A Yes, sir, I am on there.

The 1880 Authenticated Roll of freedmen of the Cherokee Nation examined and applicant's names not found thereon.

The Kerns-Clifton Roll of freedmen of the Cherokee Nation examined and applicant's name found thereon, page 138, #3432, Celia Chambers, Cooweescoowee district.

BY COM'R NEEDLES:--What was your name before you married Adair?

A My name was Celia Parks.

Q Was Adair your first husband? A Yes, sir; Parks, that is my owner's name.

The Wallace Roll of freedmen of the Cherokee Nation examined and applicant's name found thereon, page 134, #2793, Celia Parks, Cooweescoowee district.

The Kerns-Clifton Roll of freedmen of the Cherokee Nation examined and names of applicant's children found thereon as follows:

Page 139, #3441, Aleck Adair, Cooweescoowee District.
Page 139, #3442, Goldy Adair, Cooweescoowee District.
Page 139, #3443, Elsie Adair, Cooweescoowee District.

BY MR. SMITH:

- Q Where are these three unmarried ~~their~~ children, Aleck, Goldy and Elsie Adair at this time? A Right at home with me.
- Q Have they always lived with you? A Yes, sir, they always lived with me.
- Q Are these the only three of your children that are under 21 years of age? A Yes, sir.
- Q Are the others all over 21 years of age? A Yes, sir.

BY L. B. BELL, Cherokee Representative:

- Q Where did you return to when you came back in '66, did you say?
- A Up on Big Creek.
- Q Who was with you? A My husband was with me and I come with the

Cellia Chambers, et al.--3.

Webber Attachment.

Q Berry Ward? A Berry Ward that's dead.

Q Dave Hayes? A No, sir, Berry Ward come and George Adair, my husband.

Q Sam Webber Attachment was it? A Yes, sir, and my husband what's dead come along.

Q Well was Berry Ward along? A They was just so many I just don't really know and they was all strangers to me.

Q Did Dave Hayes come along? A Yes, sir, I think he did; I just really don't know.

Q Johnson Webber? A Yes, sir, Johnson Webber, Yes, sir.

Q Did they all bring their families? A Johnson Webber never had any family only a woman and two little girls.

Q You don't know whether he brought his family or not?

A No, sir, I don't, to tell the truth I don't.

Q Well did Dave Hayes bring his family? A Dave Hayes; yes, sir, I think he did.

Q You must have been 20 years old or over? A I wasn't nothing but a girl but I was married, I married at 14 years old, and of course it has been so long back and I have told this story

Q I will give you all the advantage of that; you start in when you were 20 years of age? A I can't read and write.

Q You were a grown woman and married when you come back?

A Yes, sir.

Q You can remember something of these families that come back with you? A I think Dave Hayes come back.

Now, of all them families you can't recollect any one distinctly?

A Yes, sir, I can remember some.

Q Tell me some that come with you? A Well there was Daniel Rowe for one.

Q Where did you stop, whereabouts on Big Creek did you stop?

A I stopped, well about ten miles from where I live now, down the Creek.

Q You moved up the Creek from where you stopped? A Yes, sir.

Q Well, down there in that neighborhood anywheres around, was any people living? A No, sir.

Q Not a soul? A No, sir.

Q Well, didn't you appear before this CliftonKerns commission?

A Yes, sir.

Q You didn't swear that there were some Delawares living down there did you by the name of Fall-leaf? A Yes, sir, but I made a mistake about that.

Q Well what was the mistake? A I just made a mistake; I didn't swear it the way I went to tell it and I caught it that I wasn't telling a straight tale.

Q You are telling a straight tale now? A Yes, sir.

Q Who was your mother? A I don't know.

Q Who was your father? A My father is dead, I never saw him.

Q Who did you belong to? A Jeff Parks; first place I belonged to Stever and I went from Stever to Jeff Parks.

Q How old were you when Jeff Parks bought you? A I don't know.

Q You were not large enough to remember? A No sir.

Q What time of the year did you come to Big Creek? A In the fall of '66.

Q Who was the Captain of the crowd that come down with you? A Well, sir, I just don't know, just what is just what I don't know; you asked me for the truth and I am going to tell you the truth, I just don't know.

Q Was Aaron Webber with you? A I don't know whether Aaron Webber, but this little one out here.

Q You know now he was along with you? A Yes, and the old man Webber what's dead.

Q What was his name? A Named Sam Webber.

Q What did you say about Aaron Webber coming? A Little Aaron come and I don't know nary other one, there was one was a preacher.

Celia Chambers, et al.--4.

Q D BY MR. SMITH:

Q Did you state who this little grand child of yours, whose child it is? A It is Elsie May's, my baby girl.

BY COM'R NEEDLES:

Q What was your first husband's name? A George Adair.

Q Is he living? A No, sir, he is dead, he is the father of all these children.

Q Your present husband is named Charlie Chambers? A Yes, sir.

SAM WEBBER; BEING sworn by Commissioner W B. Needles, testified as follows

BY MR. SMITH;

Q State your name? A Sam Webber.

Q Where do you live? A I live two mile west of Nowata, Coowees-coowee District.

Q How long have you lived there? A I moved there from Big Creek about two years ago.

Q How long have you lived in the Cherokee Nation? A Well, I was born and raised here, I went out and came back after the war.

Q Are you a Freedman? A Yes, sir.

Q Are you on the 1880 roll? A Yes, sir.

Q To whom did you belong? A Alony Webber.

Q Did you go out of the Cherokee Nation during the war?

A Yes, sir.

Q When did you come back? A I came back in July, 1866, and went up here on Big Creek along in August.

Q Was that the first time you came back to the Cherokee Nation before that? A No, sir, I come down before that.

Q Did you know this applicant, Celia Chambers? A Yes, sir, I known her ever since she come to Big Creek, a short time before I got acquainted with her.

Q Do you know of your own knowledge to whom she belonged?

A No, sir, I could not tell you that.

Q You say you have known her ever since she came here, when was that?

A That was in the Fall of '66.

Q Where did you first get acquainted with her? A In Kansas.

Q Do you know when she came back to the Cherokee Nation after the war? A She came back in the fall of '66.

Q How do you know that? A I was in the crowd.

Q Did she come back in the same crowd? A Yes, sir.

Q Where did she go to? A She come to Big Creek.

Q In the Cherokee Nation? A Yes, sir.

Q Well do you know where she has been living since? A She lived there on Big Creek, ten mile above where she used to live.

Q Have you seen her since from time to time since that time?

A Yes, sir.

Q Are you acquainted with her family? A Not enough to know them; I knew them enough to know them when I see them, I can't call their names, I knew the boys when I see them.

Q Where did you first see them in Kansas? A In Lind County, near Mound City.

Q About how long before you brought her back here? A I don't know exactly, two or three, two years I guess; I put it something like that, I don't know exactly, but I seen her there; she was living with a n old gentleman by the name of George Adair.

Q Do you know when he died? A Not exactly, he died here on Big Creek though, but I don't know exactly when he did die.

Q When did he come back? A He come with us when we come in the fall.

Celia Chambers, et al.--5.

BY MR. HILL:

Q When did you come down first, Webber? A When I first come to the Nation?

Q Yes. A In the fall of '65 and went to Gibson.

Q How long did you stay there then? A To Gibson?

Q Yes, how long did you stay in the Territory? A Oh, stayed in the country until March, '66, wintered here, hunting.

Q Then what become of you, did you go back to Kansas? A Went back to Kansas.

Q Whereabouts to, A Lind County, near Mound City, six miles of Mound City.

Q Then when did you return here? A We came down in the latter part of July and built on Big Creek.

Q You came back in July, '66? A Last week in July.

Q Did you come with that crowd of prospectors that come and built some houses and went back to Kansas? A Yes, sir.

Q How long were you here building those houses? A Wasn't here over three weeks as near as I can remember.

Q Then you returned to Kansas after that? A Yes, sir.

Q When did you get back to Kansas? A Up there sometime in the latter part of August.

Q And then when did you fix to move? A Just as soon as we could sell out our crops and come.

Q What time was that? A Along in the fall.

Q Along in the fall covers a hundred days nearly?

A Not exactly a hundred days, we wasn't longer than we could sell out.

Q Were you there in October or November? A I won't be certain but we come before cold weather.

Q You didn't come later than November? A Not later than that, I know we was not gone long, we was in a hurry to get back, we brought plows down here and was in a hurry to get back.

Q Did you get back down as early as October? A I won't say, I ain't certain and won't say; we was back here before cold weather that fall. We went up there and russed around terrible to get back because we wanted to get here and get fixed up before cold weather.

Q Was there any settlers on Big Creek when you come? A No, sir, when we was hunting claims we run up against John Riley and they said we was here three days, and run up against John Ooker and he said we are just here.

Q Where was that? A Down here on Verdigris.

BY COM'R NEEDLES:

Q How old are you? A About 58.

Q What is your post office? A Nowata new.

Q Are you a recognized Freedman of the Cherokee Nation?

A Yes, sir.

Q On the 1880 roll? A Yes, sir.

BY MR. SMITH:

Q Who else was in this crowd you speak of that this applicant was in? A Last crowd, I could not name all the people that come.

Q I am talking about the crowd that this woman Celia Chambers, was in; was any of her people besides herself in the crowd?

A Her husband was along and several others.

Q Do you know Abbie Ward, her sister? A She don't go by Ward now, does she?

Q No, what is her name now, Abbie Mayhaw? A I am acquainted with her; she went by some other name then, Abbie Ball.

Q Do you know her? A Yes, sir.

Celia Chambers, et al.--6.

Q How long have you known her? A About since I knowed this other one, about the time I got acquainted with this other one.
Q When did you first see her in the Cherokee Nation after the war?
A I saw her in the fall of '66.
Q When? A In the fall I said of '66.
Q Well, where did you see her in the Cherokee Nation?
A On Big Creek.
Q How did she get there? A She come with these other folks, we all come together.
Q With what other folks, her sister? A Her sister.

BY MR. HELL:

Q Do you know anything of her birth or parentage?
A No, sir.
Q Do you know anything of this Celia Chamber's birth or parentage? A No, sir.
Q You don't know whether they were Cherokee Freedmen or nor?
A Only what they say.
Q Well, I am asking you what you know? A I don't know.

BY COM'S NEEDLES:

Q She was a freed woman in '66 wasn't she? A Yes, sir.

BY MR. SMITH:

Q Do you know where she lives now? A Up on Big Creek.
Q How long has she lived there? A Ever since '66.

JIM ALBERTY, being first duly sworn by Commissioner T.B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Jim Alberty.
Q How old are you? A 70 years old.
Q Where do you live? A I live in Saline district, eight miles east of Chouteau.
Q How long have you lived in the Cherokee Nation? A I am 70 years old, I have lived there that long.
Q Have you lived here all your life? A Yes, sir.
Q Do you know this applicant, Celia Chambers? A Yes, sir.
Q How long have you known her? A Known her from the time she was a girl up until now.
Q Do you know who her owner was? A I know who her first owner was; her first owner was Stever.
Q What Stever was that? A John Stever, lives this side of Hayesville.
Q Where did you first see her after the war was over?
Q Right on the east prong of Big Creek in 1866.
Q In the Cherokee Nation? A Yes, sir.
Q Do you know her, Abbie Ball, or Mayhaw?
A I have saw her, I have no acquaintance with her.
Q Do you know anything about when she came back to the Cherokee Nation? A No, I could not tell that.
Q You don't know? A No, sir.

BY MR. HELL:

Q Were you living on Big Creek, Jim, at the time you saw this Celia Chambers? A Yes, sir; that is Tobe Martin was on my place there.
Q About what time of 1866 was it? A It was in the fall of '66 when I saw her.
Q Along in September or October? A I can't give you any date.

Celia Chambers, et al.--7.

Q It was either in September, October, November, or December?
A It was along in there somewhere, I can't give you any date.
Q You say Tobex Martin was on your place? A Yes, sir.
Q What Tobex Martin was that? A Tobex Martin that used to belong to Jim Vann; he is out here now.
Q When did you make that place? A I made it before, about the time them folks first gedin to come in on Big Creek, Tusky Brown owns it now.
Q You made it sometime about three months before these folks come back? A I don't know; I had it a year or two before you come down to the salt lake and bought sale there.
Q You made it in the year '65 then, did you? A No in '66.
Q What time, in the Spring? A No, in the Fall.
Q Was you living up there at the time you saw this woman?
A No, sir; Daniel Hicks had bought that old Marcus place and I had Tohe up there.
Q You said you saw this woman up on Big Creek there in '66?
A I was building my house and they was not.
Q You said Tohe was living up there? A You said where I was when you saw them; I was up there and she come there and after that I put Tohe there and they come down before.
Q You put Tohe in the house after you saw this woman?
A Yes, sir, that is the way it is.
Q That's better? A That is the way it is.
Q Who was John Stover you saw that was the first owner of this applicant? A He was a white man, married a Cherokee.
Q Where did he live when you knew him? A He lived right this side of where you used to live, you know this side of Mrs. Buffington, between here and there.
Q That was up by Beaty's prairie? A Yes, sir.
Q Now where aboutson Beaty's prairie did he live?
A Oh, now you have gone to where I can't go; I told you this side side of Mayesville; I can't tell you a spot in any country; it was this side of Mayesville, this side of Jack Bell's where you lived.
Q Now, a house, lots and fields, is a good deal bigger than a girl?
A Yes, sir.
Q Your recollect all about the girl and don't recollect the place?
A I cared about the girl and I didn't care about the place.
Q How large was she when you first saw her? A She was a good bit of a girl.
Q About how old was she? A I don't know; I don't know how old I was myself and I can't give you any age.
Q Down about ten years? A I don't know.
Q About how big? A I don't know.
Q You don't know how high she was? A She was a girl about as high as that (indicating.)
Q Did you ever see her more than once? A I have seen her lots of times.
Q How long did that time go on? A Every time I would go up there to ride mile heats, Jim Kell's; you know where that is better than I do.
Q What was her mother's name? A I don't know; I don't really know whether I have saw her mother or not.
Q You were never up there and seen her after that race track was abolished and quit running? A No, sir, of course I never seen her after that.
Q Do you know what become of her after you left there?
A No, sir, I don't.
Q You don't know whether she was sold or otherwise? A I don't know anything about it.

BY MR. SMITH:

Q What you have just been stating, was that before the war or after the war? A When she was a girl?
Q Yes? A That was before the war; I knew her then and know her to be.

Celia Chambers, et al.--8.

BY MR. HILL:

Q That racing quit there about '50, didn't it? A I don't know a thing about that; you want to fetch me to something I don't know anything about.

Q All you know you went there to ride races? A Yes, sir; I went there to ride races.

ABBIE MAYHEW, being sworn and examined by Commissioner T. B. Needles, testified as follows:
BY MR. SMITH:

Q State your name? A Abbie Mayhew.

Q Do you know Celia Chambers? A Yes, sir.

Q Are you related to her? A Yes, sir.

Q What kin are you to her? A Half sister.

Q How old are you? A I just don't really know my age for certain.

Q Which is the older you or Celia? A I am the oldest, she don't know anything about her mother.

Q Are you married or single? A I am married.

Q Were you a slave? A Yes, sir.

Q Whom did you belong to? A I first belonged to Mr. Hastings' grandmother.

Q What was her name? A Her name was Charlotte Stover.

Q Whom did you belong to after that? A They sold me to Mose Ward.

Q Whom did you belong to when the war broke out?

A Mose Ward.

Q Who was he? A Cherokee.

Q Where did he live? A Up there about Maysville, place called Beaty's prairie.

Q Lived in the Cherokee Nation, on Beaty's prairie?

A Yes, sir.

Q Did you go out of the Cherokee Nation during the war?

A Yes, sir.

Q Where did you go to? A I went on up to Fort Scott.

Q When did you come back to the Cherokee Nation after the war?

A I came back in the fall of '66.

Q Who did you come back with? A Sam Webber attachment of them.

Q Did you come back at the same time your sister came back?

A Yes, sir.

Q Where do you live now? A I live on Big Creek.

Q In the Cherokee Nation? A Yes, sir.

Q How long have you lived there? A I have been living there ever since.

Q Ever since you came back in '66? A Yes, sir.

Q Well to whom did your sister, Celia, belong? A John Stover, same person I did, I and her belonged to the same people.

Q Do you know whether John Stover sold her before the war or not?

A Yes, sold her before the war when she was a little bit of a girl sold her to Ann Parks.

Q Who was Ann Parks? A Johnson Thompson's sister.

Q Was she married? A Yes, sir.

Q What was her husband's name? A John Parks.

COM'R NEEDLES:-- Celia Chambers applies for the enrollment of herself and three children, to-wit: Aleck Adair, Goldy Adair and Elsie M. Adair, and for her grand child, Lela Whitmire, whom she avers is the child of her daughter, Elsie May Adair. Her name is not found upon the authenticated roll of 1880 or the census roll of 1896; she is duly identified upon the Kerns-Clifton roll as Celia Chambers and upon the Wallace pay roll as Celia Parks, that having been her maiden name. She avers that she was married to one Adair, who is the father of these children for whom she

Gelia Chambers, et al. --9.

applies, and the names of said children, Aleck, Goldy and Elsie M. Adair, are identified upon the Kerns-Clifton pay roll. The name of her grandchild, Lela, is not found upon any of the rolls, having been born after the rolls were compiled. She is duly identified, but for the reason that her name is not found upon the authenticated roll of 1880, and for the further reason that their citizenship is contested by the Cherokee Nation, Gelia Chambers, her three children and her grand child, as enumerated herein, will be listed for enrollment as Cherokee Freedmen on a doubtful card, awaiting further consideration of the Commission. It will be necessary for her to file with this Commission satisfactory proof of the birth of said Lela Whitmire, before the enrollment of said Lela Whitmire will be complete. She will be duly notified when the decision of the Commission is arrived at.

---ooo000ooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.



Subscribed and sworn to before me this 3d day of June, 1901.



Commissioner.

10-116
DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 31 1901


ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

Post Office

District

May 31st 1901

Shelby, D.C.

Zero

1. Name

Owner's name

Year

Page

Parents:

Father

Mother

Age

Citizenship

Citizenship

Citizenship

2. Name of wife

Owner's name

Year

Page

No. 3437

District

Parents:

Father

Mother

Age 58

Citizenship Cherokee

Citizenship

Citizenship

Names of Children:

1. Goldy Adair	Year	Page	No. 3441	Dist. Zero	20
2. Goldy "	Year	Page	No. 3442	Dist. "	18
3. Elsie May "	Year	Page	No. 3443	Dist. "	16
4. Elsie W. W. W. W.	Year	Page	No.	Dist.	16
7.	Year	Page	No.	Dist.	
8.	Year	Page	No.	Dist.	
9.	Year	Page	No.	Dist.	
10.	Year	Page	No.	Dist.	
11.	Year	Page	No.	Dist.	
12.	Year	Page	No.	Dist.	

Application made by

Stenographer

No 1 on R.C. roll as ~~Salia Chambers~~
 No 2 on Wallace roll Page 134 No 2443 Salia Charles, Zero Dist
 No 3 on R.C. roll as Goldy Adair
 No 4 " " " " Elsie
 No 5 Birth certificate required.

Represented by Mellette & Smith, Vinita, D.C.

Cherokee Freedman D 446

20

IN RE

Application for Enrollment of
INFANT CHILD

Selah Whitmire

as a citizen of

Cherokee Nation.

Approved July 27 1901

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FILED JUL 27 1901

TAMS BIXBY
ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR, COMMISSION TO THE FIVE CIVILIZED TRIBES.

BE THE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Selah Whitmire (Here insert name of child.), born on the 25 day of Aug, 1900.
Name of Father: William Whitmire a citizen of the Cherokee Nation.
Name of Mother: Elsie M. Adair a citizen of the Cherokee Nation.
Postoffice Hudson

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Cooweescoowee DISTRICT.

I, Elsie M. Adair, on oath state that I am 16
years of age and a citizen, by Birth, of the Cherokee Nation;
that I am the lawful wife of _____, who is a citizen, by
_____, of the _____ Nation; that a Female child was
(Male or Female.)
born to me on 25 day of Aug, 1900; that said child has been named
Selah Whitmire, and is now living.

Elsie M. Adair

WITNESSES TO MARK:

(Must be Two Witnesses.) { Elissia Bryant
Winona V. Blair

Subscribed and sworn to before me this 4 day of July, 1901.

(SEAL)

J. W. Blair

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Cooweescoowee DISTRICT.

We I, Abbie Mayhew Midwife, a _____, on oath state that I
Celie Chambers
attended on Mrs. Elsie M. Adair, wife of _____
on the 25 day of Aug, 1900; that there was born to her on said date a Female
(Male or Female.)
child; that said child is now living and is said to have been named Selah Whitmire

her her
Abbie I Mayhew Celie X Chambers
Mark Mark

WITNESSES TO MARK:

(Must be Two Witnesses.) { Elissia Bryant
Winona V. Blair

Subscribed and sworn to before me this 4 day of July, 1901.

(SEAL)

J. W. Blair

Notary Public.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of A. D. 1901.

Given under my hand this.....
day A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
..... day of, 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of A. D. 1901

Subscribed and sworn to before me
this..... day of A. D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 23 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Celia Chambers
for enrollment as a Cherokee Freedman:

Case No. F. D. 446

To Celia Chambers Hudson I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, on the following dates, to-wit: Oct. 26th at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 13 1901 day of SEP 13 1901, 1901.

L B Bell
M M Hastings

Attorneys for the Cherokee Nation.

AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss

In the matter of the application of Belia
Chambers for enrollment as a Cherokee Freedman.

No. F. D. 746

Henry Pack, of lawful age, being duly sworn on
oath states that on the 13 day of September, A. D., 1901, he registered
to Belia Chambers whose postoffice is Gaudson

Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto
attaches the receipt of the Postmaster at Fort Gibson Indian Territory;
and that on the 23 day of September, 1901, he received the return
card which is hereto attached, signed by the said Belia Chambers, showing
that he had received said notice.

Henry Pack
Subscribed and sworn to before me on this the 23 day of Sept, A. D., 1901.

J. C. Starr
Notary Public.

MY COMMISSION EXPIRES
MAY 20th, 1902.

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C.

REPORT OF THE
COMMISSIONER OF THE BUREAU OF INDIAN AFFAIRS
FOR THE YEAR 1901

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
ET AL
DEC 19 1901

REPORT OF THE
COMMISSIONER OF THE BUREAU OF INDIAN AFFAIRS
FOR THE YEAR 1901

File with C.F. D-446, Oelia Chambers, et al.

Supl. C.F. D-447.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 29th, 1901.

In the matter of the application of Abbie Mayhew for enrollment as a Cherokee Freedman the following supplemental testimony is offered on part of the Cherokee Nation.

APPEARANCES:

Mellette & Smith, Attorneys for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

A.R. WAYNE, being duly sworn and examined by Commissioner Breckinridge, testified as follows on part of the Cherokee Nation.

Q Give me your full name? A A.R. Wayne.

Q How old are you? A I am 58 years old.

Q What is your post-office? A Mound City, Linn County, Kansas.

Q Are you a citizen of the State of Kansas? A Yes, sir.

MR. DAVENPORT: How long have you lived in and near Mound City, Kansas, Mr. Wayne? A I have lived there continuously except a little over three years I was in the war, since 1855.

Q Did you know a colored family up there by the name of Ball; did you get acquainted with them? A I know all of the Balls.

Q What was the families name you got acquainted with? A Arthur Ball and Spence Ball.

Q Did Arthur Ball have a wife? A Claimed her as wife and I understood he was married.

Q Did you know what her name was? A Yes, sir.

Q What was her name? A They called her Abbie Berry that is what she called her name.

Q Do you know whether or not she lived up there before she and Arthur Ball went to living together? A Yes, sir.

Q Who did she live with before she went to living with Arthur Ball? A Yes, sir, I first knew her she was living in the family of Anderson Turk.

Q Then did she afterwards live together with Arthur Ball as his wife? A Yes, sir.

Q When did you first get acquainted with Abbie Ball, or Berry, Mr. Wayne? A It was in '68.

Q Where was she living at that time? A About four miles and a quarter northwest of Mound City.

Q When did you get acquainted with Arthur Ball? A Well, it was a number of years before that; I could not tell you.

Q You had known Ball before you did Abbie? A Yes, sir.

Q Well, now, then, when was the last time you know of your own knowledge they were living in that neighborhood or country there, what year? A Well, I know they were living there in 1879.

Q Were you at their house, or Ball with you, or anything that makes you remember that? A Yes, sir.

Q Well, what was the circumstance that makes you remember? A There was quite an excitement in that country in regard to lead and I got somewhat interested and I heard there was a colored man at Iola, about 35 miles from where I lived and I got this Arthur Ball for to go with me because he was acquainted with this colored man and we had a conversation.

Q That was in what year? A That was in 1879.

Q Do you know where Arthur was living with his wife, Abbie? A They was living there in Mound City, or about a mile and a half, they were living out after that on the place, he had a little farm and lived there for a while, but at that time I did not hear.

Q When she left that country was she and Arthur Ball living together as man and wife? A Yes, sir.

Q You don't know where they went to? A No sir.

Mr. Smith: Well, Mr. Wayne, you don't know that this woman, Abbie, was this man's wife, or that she lived with this man except

what you heard? A No, sir, no more than any other family there is in my community.

Q Well, you say that you heard they lived together? A Yes, sir, and I heard they was married.

Q Where did you get acquainted with this woman? A The first time I ever saw her was in the family of Anderson Turk, about four miles and a quarter northwest of Mound City.

Q That was in 1868? A Yes, sir.

Q You didn't know anything about her prior to that time?

A I did not; I may have met the lady before that but at that time is all I can call to mind.

Q Well, how long did she live at the place you saw her when she was living with Anderson Turk? A I don't think she lived there a great while until she went to Mound City and worked in the Hughes Hotel.

Q What was she doing? A Cooking.

Q Was hired out and worked? A Yes, sir.

Q You never saw her with this man you are talking about? A Except on one occasion.

Q Where was that? A It was when me and Arthur went to Iola?

Q How long had it been since you had seen her before that, do you know; seen her after she worked in that hotel that time?

A No, sir, I think they were married when she was working in the hotel.

Q Well, now, how long was that before you saw her with Anderson Turk? A I saw her around there for several years.

Q Well, you saw her at the hotel; how long was that from the time you first saw her? A I don't think it was more than six months.

Q Well, did you ever see her again until you saw her after you made this trip you were speaking about? A No, to my knowledge only once.

Q Only once? A That is all to my knowledge.

Q So that makes, - you don't remember the last time you saw her, the year it was? A No, sir, I remember her after that, I remember the circumstance that happened.

Com'r Breckinridge: This will be filed as supplemental testimony in Cherokee Freedmen case D #447, of Abbie Mayhew, and also in Cherokee Freedmen case D #446.

---oooOOooo---

J.O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J.O. Rosson.

Subscribed and sworn to before me this November 7th, 1901.

(signed) T.B. Needles,

Commissioner.

M.D. Green being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript.

Subscribed and sworn to before me this December 11th, 1901.



Commissioner.

F. D.

446

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 190

Given under my hand this
day of A. D. 190

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

day of 2/11, 190

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190

Subscribed and sworn to before me
this

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

FEB 13 1902

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of Celia Chambers
for enrollment as Cherokee Freedmen:

Case No. F. D. 446

To Celia Chambers or Hallette & Smith her attorneys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on February 24th, 1902, at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 24th day of February, 1902.

L B Bell

W. W. Hastings

Jess Davidson
Attorneys for the Cherokee Nation.

"R"

File with C. F. D- 446, Celia Chambers

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in the matter of the application of Celia Chambers, et al., for enrollment as Cherokee ~~and~~ Freedmen, D-446.

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I.T., attorneys for the applicants;

W.W.H J.S.Davenport, of attorneys for Cherokee Nation.

W.H.NOBLE, being sworn and examined testified as follows:

BY MR. DAVENPORT:

Q What is your name? A W. H. Noble.

Q Where do you live? A On Big Creek.

Q How long have you lived on Big Creek? A About thirty odd years.

Q Where is Big Creek? A It is in Cooweescoowee District.

About the center of Cooweescoowee District.

Q Running to the Kansas line from the Cherokee Nation? A Yes sir.

Q You know Celia Chambers? A Yes sir.

Q How long have you known her? A I have known her as Mrs. Adair, George Adair's wife, until the last four or five years, when she married Chambers, right there in my neighborhood, right under me.

Q You say she was living with Adair? A Yes sir, George Adair.

Q When did she first come into your neighborhood there on Big Creek? A I think as well as I can recollect in the spring of 1870.

Q Who did she come there with? A George Adair and George Adair's wife.

Q You had been living in that country since when on Big Creek? A Ever since about '64, '5 I guess, '66, probably. '66 when I moved over on to Big Creek, about '68.

Q How far is she living now from where she first came in that country and settled? A Right in the first place where she settled; right on the same farm., where she settled in '70 or '71, lived on the same place yet.

BY MR. MELLETTE:

Q Mr. Noble, when did you locate on Big Creek? A I think it was in about '67, that I went there first.

Q What time in '67? A I think I went there first along in the winter of '67 and then commenced improvements there in the spring of '67.

Q Where did you go from when you went on Big Creek there? A From Cabin Creek.

Q U- close to Chetopa, Kansas? A Yes sir.

Q What Freedmen cases was it you testified in at Vinita? A I could not say now.

Q Now Mr. Noble, you remember that you were brought in there at Vinita before this Commission as a witness in the Freedmen cases, and you testified that you were living up near Chetopa, Kansas, and in '67 on Cabin Creek, didn't you? A I was on Cabin in '67 and I was also on Big Creek in '67; all the same.

Q What part of '67 did you go over on Big Creek? A I couldn't say at to that just what time, but sometime in the spring of the year, I went over there.

Q No- didn't you testify in Eliza Gaines' case that you were living up near Kansas, Chetopa, Kansas, in the fall of '67? A I could not say as to that.

Q Now you remember the case very distinctly don't you? A I could not say for that, I was there on Big Cabin and I was also on Big Creek in '67 both; they are near about eight miles apart.

Q You don't remember when you testified in the Eliza Gaines case

there what year the war closed, did you? A I think not, just at that time, but I could afterwards.

Q What? A I didn't at that time, but I could afterwards.

Q Now you are willing to swear positively that you moved to Big Creek in '67 are you? A Yes sir.

Q What time did you permanently locate on Big Creek in '67? A We went there in the spring and I moved my stuff there during the summer of '67.

Q Then you were not on Cabin near Chetopa, Kansas, in the fall of '67? A No, principally, yes.

Q You didn't live there? A I lived with my uncle, yes, at that time I was a youngman.

Q You didn't have any regular home at that time? A No sir, not then.

Q You don't know where Celia Chambers come from when you first saw her? A She was on Big Creek when I first saw her.

Q You don't know where she was before that though? A No sir.

Q She might have been in that country so far as you know? A Not up in that section.

Q Did you see everybody up in that country? A In that year I was all over that country.

Q You don't pretend to swear that you saw everybody in that country do you? A No sir.

BY MR. BELLETTE: I want the testimony of this witness in the Eliza Gaines case made part of the testimony in this case.

BY COMMISSIONER: The request of the attorney for the applicant will be complied with, and the testimony made part of the record.

This testimony will be filed and made part of the record in the following Cherokee Freedmen cases No. D 447, D 449 D 451 D 452 and D 560.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this February 28, 1902.

[Signature]

Commissioner.

Subject: ...

... the ...

(cont.)

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446

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of FERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of James Whitire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Gelia Chambers, B 446;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Cill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

~~In the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.~~

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Cher
Supp'l to Freed D 446

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., April 11, 1903.

In the matter of the application of CELIA THOMPSON, for the enrollment of herself and her children ALBCK, GOLDIE and ELSIE MAY ADAIR, and her grand child LELAH WHITMIRE, as Cherokee Freedmen:

CELIA THOMPSON, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A My name is Celia Thompson. It was Celia Chambers when I enrolled, Charlie Chambers was my husband.
Q He is dead now ? A Yes sir.
Q When did he die ? A Last year.
Q You are married again ? A Yes sir.
Q Who is your husband now ? A Dan Thompson.
Q Is he a Freedman ? A Yes sir.
Q When were you married to him ?
A The 2nd day of July last year.
Q How long had your husband Chambers been dead ?
A Why he died New Years.
Q A year ago last January ? A Yes sir.
Q You married the same year your husband died ?
A Yes sir that's right.
Q Did you have a marriage certificate of your marriage to your husband Thompson ? A Yes sir.
Q Have you got it at home ? A Yes sir.
Q Will you send it in to the Commission ?
A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1903.

Samuel Foreman

Notary Public.

2042

COMMISSION TO THE
FILED
APR 23 1903

CHAPMAN

Chas. J. B. H. C.

Clerk of the Court
Case No. 2042

IN SENATE
JANUARY 1903
REPORT OF THE
COMMISSIONERS OF THE
LAND OFFICE
IN RESPONSE TO A
RESOLUTION PASSED
BY THE SENATE
MAY 1902
RELATIVE TO THE
LANDS BELONGING
TO THE STATE OF
CALIFORNIA
AND THE
LANDS BELONGING
TO THE UNITED STATES
IN CALIFORNIA
AND THE
LANDS BELONGING
TO THE STATE OF
CALIFORNIA
AND THE
LANDS BELONGING
TO THE UNITED STATES
IN CALIFORNIA

(COPY)

Cherokee F.D. 444

MARRIAGE LICENSE.

United States of America,)
Indian Territory,) ss.
Northern District.

No. 544

To any person authorized by law to solemnize marriage --Greeting:
You are hereby commanded to solemnize the rite and publish the
banns of matrimony between Mr. Daniel Thompson of Hudson, in the
Indian Territory, aged 74 years, and Miss Celia Chambers of Hudson,
in the Indian Territory, aged 52 years, according to law, and do you
officially sign and return this license to the parties therein named.
WITNESS my hand and official seal at Vinita, Indian Territory, this
2nd day of July, A. D. 1902.

Chas. A. Davidson,
Clerk of the U. S. Court.

By T. A. Chambers, Deputy.

CERTIFICATE OF MARRIAGE.

United States of America,)
Indian Territory,) ss.
Northern District.

I, T. A. Chandler, Deputy Clerk do hereby certify, that on the 2nd
day of July, A. D. 1902, I did duly and according to law as command-
ed in the foregoing license, solemnize the rite and publish the banns
of matrimony between the parties therein named.
WITNESS my hand this 2nd day of July, A. D. 1902.

T. A. Chandler,
Deputy Clerk.

CERTIFICATE OF RECORD.

United States of America,)
Indian Territory,) Pss.
Northern District.

I, Charles A. Davidson, Clerk of the United States Court in the
Northern District, Indian Territory, do hereby certify that the
instrument hereto attached was filed for record in my office the
10 day of July, 1902, and duly recorded in Book A, Marriage Record,
Page 3.

WITNESS my hand and seal of said Court at Vinita, in said Territory,
this 10 day of July, A. D. 1902.

Chas. A. Davidson, Clerk.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

I, the undersigned, Chief Clerk Cherokee Land Office, and
custodian of the records of said Office, do hereby certify that the
above and foregoing is a true and correct copy of the original now
on file in the said Cherokee Land Office.


Chief Clerk Cherokee Land Office.

Subscribed and sworn to before me this the 21 day of April, 1903.


Notary Public.

RECEIVED
OCT 16 1908
COMMUNICATIONS TO THE TIMES

George A. ...

Cher. Fr. D-446.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 22, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of CELIA THOMPSON, ET AL., as Cherokee Freedmen.

Appearances:

W. W. Hastings, Attorney for Cherokee Nation.

XX C CELIA THOMPSON, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: What is your name? A Celia Thompson.

Q It used to be Celia Whitmire? A No sir, it used to be Celia Bell, and I married Charlie Chambers, and he died and I married Dan Thompson.

Q How old are you? A I count myself fifty-eight. Of course, I can't read and write, but that is what I have heard.

Q You were born before the war? A Yes sir.

Q What is your post office address? A Hudson.

Q Do you know Lilah Whitmire, who has applied for enrollment as a Cherokee freedman? A Her mother was my daughter, she died this spring.

Q Lilah Whitmire, then, is your granddaughter? A Yes sir. It is Elsie May Adair is that child's mother, and she died this spring.

Q Is that child's mother named Elsie May Adair?

A Her name is Elsie May Adair.

Q She died this spring? A Yes sir, I don't know what month. She came down here and got her ticket, and died when she got back home.

Q Who is the father of Lilah Whitmire? A William Whitmire.

Q About how old is William Whitmire? A I don't know. I think he must be going on about twenty-two. I think that is what I heard him say, about twenty-two. He is the son of Maria Whitmire.

Q He is also the son of Moses Whitmire? A Yes sir, that's right, he is Moses Whitmire's son.

Q Do you know whether this Whitmire is on the 1880 roll or not?

A They all claim they're on the 1880 roll. I guess you know more about it than I do, that is what they all claim.

Q What district does William Whitmire live in? A Cooweescoowee District.

Q How long has he lived there? A Ever since I have known him. He has been raised on the Creek since I have been there.

Q What is William Whitmire's post office? A Wimer.

Q Your daughter, Elsie May Adair, how long has she lived in the Cherokee Nation? A She never lived anywhere else, been bred and born up here on Big Creek.

Q She has lived in the Cherokee Nation all her life, up to her death? A Yes sir.

Q You say William Whitmire has lived in the Cherokee Nation all his life? A Yes sir, all his life.

MR. HASTINGS: Was your daughter and William Whitmire married?

A Wasn't married, no sir.

Q They never were married? A No sir.

Q Did your daughter have any other children except this one?

A No sir, this is the only one she ever had by William Whitmire.

Q Have any children by anybody else? A She has got a child been dead about five weeks ago, I guess. This little girl is three years old.

Q How many children did she have altogether? A Two.

Q She never was married? A Yes sir.
 Q Who was she married to? A She married Dan Vanford.
 Q When? A Last October.
 Q Was she ever married before that time? A No sir.
 Q Was your daughter, Elsie May Adair, was she married to William Whitmire? A No sir.
 Q Do you know whether William Whitmire is the father of Lilah Whitmire? A He said he was. He claimed it. That's the reason he sent the letter (of which witness had spoken before being sworn). Of course he owned the child. He is sick.
 Q Did he ever support the child? A He never supported it.
 Q Did he always acknowledge the child as his? A Yes sir, he always acknowledged it as his. Then he married another woman, and of course he couldn't do nothing for the child without hurting the feelings of his wife.

MR. HASTINGS: How long has he been married? As near as I can get at it, I guess he has been married about two years, maybe a year and a half, I don't know exactly.

Q Was this child born before or after he was married?

A Before he was married. He promised to marry my girl, and fooled around and he didn't. I gave him a roundup, but when he got ready he turned around and married some other woman. This child was born before he got married.

Wm. Hutchinson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly reported the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Wm Hutchinson

Subscribed and sworn to before me this 15th day of October, 1903.

Charles E Sawyer
 Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Jacob Ross, et al., as Cherokee Freedmen, consolidating the applica-
tions of

Jacob Ross, et al.....	Cherokee Freedmen	D	539
George Ross, et al.....	"	D	540
Moses Ross, et al.....	"	D	541
Sarah Allen, et al.....	"	D	543
Rosanna Skaggs, et al.....	"	D	545
Willie Ross, et al.....	"	D	838
Thomas Archer, et al.....	"	D	901
Eli Archer.....	"	D	1002
Celia Thompson, et al.....	"	D	446
Jessie Brown, et al.....	"	D	449
Benjamin Adair, et al.....	"	D	451
Abbie Rowe, et al.....	"	D	452
Peter Adair.....	"	D	560
Frank Whitmire, et al.....	"	D	956
Austin Whitmire, et al.....	"	D	974
Nelson Whitmire.....	"	D	1090
Abbie Mayhew.....	"	D	447

-: D E C I S I O N :-

The record herein shows that applications were made to this Commission for the enrollment as Cherokee Freedmen by Maria Ross, for herself, her husband, Jacob Ross, her daughter, Ella Ross, and her minor grandchild, Thomas Anderson; the said Thomas Anderson, being differently classified, is not embraced in this decision; by George Ross for himself, his wife, Rose Ross, and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself and her husband, William Skaggs; the said William Skaggs claims only by intermarriage and his rights are not passed upon in this decision; by Willie Ross for himself, his wife, Rosa, and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself and his wife, Georgeann Archer; the said Georgeann Archer claims only by intermarriage and her rights are not passed upon in this decision; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Alfred, Goldy and Miss May Adair and her minor grandchild, Lela Whitmire; by Jessie Brown for herself, her husband, Robert Brown, and their minor children, Turner, Bessie, Gracie, Gladys and Celia Brown; the said Robert Brown claims only by intermarriage and his rights are not passed upon in this decision; by Benjamin Adair for himself, his wife, Lizzie Adair, and their minor children, Isaac, Ollie, George, Cleveland and Aid Adair; by Abbie Rowe for herself and her minor children, Arthur, Minnie and Abbie Rowe; by Peter Adair for himself; by Frank Whitmire for himself and his minor children, Jesse, Ma, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Corn, Minnie, Josephine and Arthur Whitmire; by Nelson Whitmire for himself; and by Abbie Mayhew for herself.

Copies of the testimony, taken at Muskogee, Indian Territory, on April 15, 1902, in the case of Nelson Murrell, et al., Cherokee Freedmen D-548; at Muskogee, Indian Territory, on May 16, 1902, in the case of Mary Harris et al., Cherokee Freedmen D-528; and at Vinita, Indian Territory, on October 3, 1901, in the case of David Martin et al., Cherokee Freedmen D-486, are filed herewith and made a part of the record in this case.

The evidence in this case shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the commencement of the rebellion and were taken out of said nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to said nation within the time specified in the decree of the Court of Claims, rendered on February 3, 1896, in the case of Moses Whitmire, trustee et al., vs. the Cherokee Nation et al., for the return of freedmen to the Cherokee Nation; that Frank Whitmire did return to the Cherokee Nation within the time specified in the decree of the Court of Claims of February 3, 1896, supra.

That Ella Ross, George Ross, Moses Ross, Willie Ross, Rosanna Skaggs, Sarah Allen, Fred Ross, Stella Ross, Fama Ross, Lee Etta Ross and Oscar Tucker are the children and grandchildren of Jacob and Maria Ross, born since 1866, and possess no right to enrollment except as their descendants. That Louisa Burney was born subsequent to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll. That Rose Ross, the wife of George Ross, was born since 1866 and claims the right to enrollment through her father, one Louis Gibson, whose application for enrollment as a Cherokee Freedman has been denied by this Commission. (see Cherokee Freedman D-774). That Eli Archer and Rosa Ross, wife of Willie Ross, were born since 1866 and are the descendants of, and claim the right to enrollment through, Thomas Archer and his wife, Delsie Archer, who returned to the Cherokee Nation with her husband after the rebellion. That Rachel Ross, wife of Moses Ross, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant, Austin Whitmire, Nelson Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Lela Whitmire, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair and Aid Adair are the children and grandchildren of Frank Whitmire, born since 1866, and claim the right to enrollment through the said Frank Whitmire. That Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudie Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe are the children and grandchildren of the said Celia Thompson, born since 1866, and claim the right to enrollment through the said Celia Thompson.

The evidence further shows that Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Abbie Mayhew are not identified upon the Cherokee tribal roll of 1880.

It further appears that Frank Whitmire has resided continuously in the Cherokee Nation since his return thereto, in 1866, with the exception of about one year when he had a temporary residence in the State of Missouri, and the the applicants Lela

Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire, and Louisa Burney have resided in the said nation since birth.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Emma Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson, (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celia Brown, Abbe Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Abbie Mayhew, as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stat., 495); and it is further the opinion of this Commission that Lela Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Frank Whitmire, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire and Louisa Burney should be enrolled as Cherokee Freedmen, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,

Dec 16 1904

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JAN 4 1900

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NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Celia Chambers,
Hudson, I.T.

Cherokee P-D-446

Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee Freedmen
D-446.

Muskogee, Indian Territory, September 10, 1903.

Celia Thompson,

Hudson, Indian Territory.

Dear Madam:

In the matter of your application for the enrollment of yourself and children as Cherokee Freedmen, you are hereby advised that further testimony is required as to the right of William Whitmire, father of Lelah Whitmire, to enrollment as a Cherokee Freedman.

You are further advised that the Commission will be at Vinita, Indian Territory, on Wednesday, September 23, 1903, for the purpose of hearing additional testimony in Cherokee Freedmen doubtful cases, and you are directed to appear before the Commission on that date and introduce testimony covering the point above mentioned.

Respectfully,

Chairman.

Cherokee Freedmen.
D-445.

Muskegee, Indian Territory, September 10, 1903.

Walter Smith,

Attorney for Celia Thompson, et al.,
Vinita, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Celia Thompson, et al., as Cherokee Freedmen, you are hereby advised that further testimony is required as to the right of William Whitmire, father of Lelah Whitmire, to enrollment as a Cherokee Freedman.

You are further advised that the Commission will be at Vinita, Indian Territory, on Wednesday, September 23, 1903, for the purpose of hearing additional testimony in Cherokee Freedmen doubtful cases, and the applicant has been directed to appear before the Commission on that date and introduce testimony covering the point above mentioned.

Respectfully,

Chairman.

WINTER GUD JERR
September 21. 1853

Commissioners. Dear Sirs,
I have the honor to acknowledge the receipt of your letter of the 17th inst. in relation to the purchase of the land for the purpose of building a school house. I am sorry to hear that you are unable to take the land, but I am glad to hear that you are still in the possession of the land. I am sure that you will be able to find a suitable site for the school house.

I am, Sir, very respectfully,
Yours, Sir, very respectfully,
J. W. Winter

I am, Sir, very respectfully,
Yours, Sir, very respectfully,
J. W. Winter

COPY,

Cherokee Freedmen
B-339, et al.

Muskogee, Indian Territory, December 16, 1904

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, granting the applications for the enrollment of Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair, Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Minnie, Josephine, Arthur and Nelson Whitnair, Ella Bryant (formerly Whitnair), Louise Burney and Rachel Ross, as Cherokee Freedmen, and rejecting the applications for the enrollment of Jacob, Mariah, Ella, George, Rose, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Etta Ross, Sarah Allen, Oscar Tucker, Mesanna Skaggs, Eli and Thomas Archer, Celia Thompson (formerly Chambers), Aleck, Selaz, Elsie May, Benjamin and Peter Adair, Jessie, Turner, Bessie, Gracie, Claudy and Celia Brown, Abbie, Arthur, Minnie and Abbie Rowe and Abbie Mayhew, as Cherokee Freedmen.

-2-

You are hereby advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the principal applicants. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Encl. B-60 .

SIGNED: *Tame Bixby*
Chairman.

COPY.

Cherokee Freedman
D-446.

Muskogee, Indian Territory, January 7, 1905.

Celia Thompson,
Hudson, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, granting, among others, the application for the enrollment of your grand-daughter, Lela Whitmire, and rejecting, among others, the application for the enrollment of yourself and your children, Aleck, Goldy, and Elsie May Adair, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectively,

SIGNED, *James Bixby*,
Chairman.

Encl. L-54,
Register.

COPY

Cherokee Freedmen
D-230 et al.

McAlester, Indian Territory, January 7, 1905.

Edgar Smith,

Attorney for Mariah Ross et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting, among others, the applications for the enrollment of Mariah, Ella, George, Rose, Fred, Stella, and Hance Ross; Sarah Allen, Oscar Tucker, Rebecca Skaggs, Thomas Archer, Gelia Thompson, Aleck, Galdy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Beanie, Gracie, Claudy, and Gelia Brown; Abbie, Arthur, Rinnie, and Abbie Rowe; and Abbie Mayhew, and granting, among others, the applications for the enrollment of Rachel Ross, Levia Burtay, Lela, Frank, Jesse, Ada, George, and Beanie Whitmire; Lizzie, Isaac, Ellie, George, Cleveland, and Aid Adair; and Ella Bryant, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the

COPY

42.

Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. 1-66.

SIGNED:

Tams Bixby.
Chairman.

COPY.

Cherokee Freedmen
D-539 et al.

Washoe, Indian Territory, January 7, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted record of proceedings had in the consolidated case of Jacob Ross et al., including the Commission's decision dated December 16, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting the applications for the enrollment of Mariah, Ella, George, Ross, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Etta Ross; Sarah Allen, Oscar Tucker, Rosanna Skaggs, Thomas and Eli Archer; Celia Thompson, Aleck, Goldy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Bessie, Gracie, Claudy, and Celia Brown; Abbie, Arthur, Minnie, and Abbie Rowe; and Abbie Mayhew, and granting the applications for the enrollment of Rachel Ross, Louisa Burney, Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Minnie, Josephine, Arthur, and Nelson Whitire; Ella Bryant, and Lizzie, Isaac, Ollie, George, Cleveland, and Aid Adair, as Cherokee Freedmen.

Respectfully,

Tams Dixby.
Chairman.

Encl. L-47.

Through the
Commissioner of Indian Affairs:

COPY.

Cherokee Freedmen

D-446.

Muskogee, Indian Territory, February 3, 1906.

Celia Thompson,

Hudson, Indian Territory.

Dear Madam:

The Commission is in receipt of your letter of January 23, asking to be furnished with a copy of the record of proceedings had in the matter of the application for your enrollment as a Cherokee freedman.

In reply you are advised that there has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings had in this case. You are further advised that the Commission cannot undertake to furnish the additional copy requested.

Respectfully,

(SIGNED).

Tams Bixby.
Chairman.

COPY.

Cherokee Freedmen

D-446.

Muskogee, Indian Territory, March 13, 1905.

Celia Thompson,

Hudson, Indian Territory.

Dear Madam:

The Commission is in receipt, by reference from the Secretary of the Interior, of your letter of February 13, 1905, relative to your enrollment as a Cherokee freedman.

In reply you are advised that the Commission's decision dated December 16, 1904, rejecting the application for the enrollment of yourself and minor children, and granting the application for the enrollment of your minor grandchild, Lela Whitmire, as Cherokee freedmen, was forwarded to the Secretary of the Interior on January 7, 1905, for his review and decision. You are further advised that the Commission has not been advised of any departmental action in this case.

Respectfully,

(SIGNED) *Tams Bixby.*
Chairman.

(COPY)

Land:
2223-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON,

April 1, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Incenclose a report from the Commission to the Five Civilized Tribes, dated January 7, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Maria Ross for herself, her husband, Jacob Ross and her daughter, Ella Ross; by George Ross for himself, his wife, Rose Ross and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself; by Willie Ross for himself, his wife, Rosa and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Aleck, Goldy, and Elsie May Adair, and her minor grandchild, Lela Whitmire; by Jessie Brown for herself and her minor children, Gracie, Claudy and Celia Brown; by Benjamin Adair for himself, his wife, Lizzie Adair, and their minor children, Isaac, Ollie, George, Cleveland and

Aid Adair; by Abbie Rowe for herself and her minor children, Arthur, Minnie and Abbie Rowe; by Peter Adair for himself; by Frank Whitmire for himself and his minor children, Jesse, Ada, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Mineola, Josephine and Arthur Whitmire; by Nelson Whitmire for himself, and by Abbie Mayhew for herself.

December 16, 1904, the Commission decided favorably to Rachel Ross, Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair; Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Mineola, Josephine, Arthur and Nelson Whitmire; Ella Whitmire Bryant and Louisa Burney and Adversely to all the other applicants.

The record shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the beginning of the war of the rebellion and were taken out of the Cherokee nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to the Nation on or before February 11, 1867, but that Frank Whitmire did return prior to said date.

It is also shown that Ella, George, Moses, Willie, Fred, Stella, Emma and Lee Etta Ross and Rosanna Skaggs, Sarah Allen and Oscar Tucker are the children and grand children of Jacob and Maria Ross born since 1866, and possess no rights to enrollment except as their descendants; that Louisa Burney was born subsequent

to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll; that Rose Ross, the wife of George Ross was born since 1866 and claims right to enrollment through her father, one Louis Gibson, whose application has been denied and the adverse decision affirmed by the Department November 19, 1903 (I.T.D.6188,8060-1903); that Eli Archer and Rosa Ross, wife of Willie Ross were born since 1866, and are the descendants of, and claim right to enrollment through Thomas Archer and his wife Delsie Archer, who returned to the Cherokee Nation with her husband subsequent to February 11, 1867; that Rachel Ross wife of Moses Ross, Jesse, Ada, George, Bessie, Austin, Nelson, Cora, Mincola, Josephine, Arthur and Lela Whitmire, Ella Bryant, Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair are the children and grand-children of Frank Whitmire, born since 1866, and claim right to enrollment through him; that Aleck, Goldy, Elsie May, Benjamin and Peter Adair, Josie, Turner, Bessie, Gracie, Claudy and Celia Brown, and Abbie, Arthur, Minnie and Abbie Rowe are the children and grand children of Celia Thompson, born since 1866, and claim right to enrollment through her.

It does not appear that any of the applicants is identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision is recommended.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

M.M.M. (W)

(COPY)

CRW

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

D.C. 48532.

I.T.D. 3396, 8393, 8445,
8479, 8497, 8583,
8585, 8589, 8649,
8787, 8791, 8793,
8795-19 05.

November 2, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 7, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for the enrollment of Jacob Ross et al. as Cherokee freedmen, including its decision of December 16, 1904, rejecting the applications of Jacob, wariah, Ella, George, Rose, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Etta Ross; Sarah Allen; Oscar Tucker; Rosanna Skaggs; Thomas and Eli Archer; Celia Thompson; Aleck, Goldy, Elsie May, Benjamin, and Peter Adair; Josie, Turner, Bessie, Gracie, Clandy, and Celia Brown; Abbie, Arthur, Minnie, and Abbie Rowe, and Abbie Mayhew; and granting the applications of Rachel Ross; Louisa Barney; Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Minnie, Josephine, Arthur, and Nelson Whitmire; Ella Bryant, and Lizzie, Isaac, Ollie, George, Cleveland, and Aid Adair.

Reporting April 1, 1905 (Land 2223), the Indian Office

recommended that the Commission's decision be approved. A copy of its letter is inclosed.

September 7, 1905, motions for review were filed in the matter of the applications of Moses Ross, Abbie Rowe et al., Celia Thompson et al., Rose Seaggs, Ella Ross et al., George Ross et al., Jacob Ross et al., Abbie Mayhew, Benjamin Adair, Sarah Allen et al., Eli Archer et al., and Thomas Archer.

There appears to be no proper reason for granting said motions and they are hereby denied.

The Department concurs in the recommendation made, and the decision of the Commission is hereby affirmed.

The Indian Office will notify local attorneys of departmental action.

The papers in the case, including said motions for review, have been sent to the Indian Office for its files.

Respectfully,

B. A. Hingschek

Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 14 to Ind. Of.

Cherokee Freedmen

D-446.

Muskogee, Indian Territory, November 13, 1906.

Celia Thompson,

Hudson, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, your application for the enrollment of yourself and children, Aleck, Goldy and Elsie May Adair, and granting, among others, the application for the enrollment of your grandchild, Lela Whitmire, as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of your case, filed by your attorneys September 7, 1905, denied.

You are further advised that you will not be permitted to make an allotment selection for your grandchild, Lela Whitmire, until her name has been placed upon a schedule of Cherokee freedmen and approved by the Secretary of the Interior, of which action you will be duly notified.

Respectfully,

LS

Commissioner.

Cherokee Freedmen

D-530, et al.

Muskogee, Indian Territory, November 13, 1906.

Blue & Bulger,

Attorneys for Jacob Ross, et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1906, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed by you September 7, 1906, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. 2-4
LS

Commissioner.

Cherokee Freedmen

D-539, et al.

Muskogee, Indian Territory, November 13, 1906.

Blue & Bulger,

Attorneys for Jacob Ross, et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 18, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed by you September 7, 1906, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. 3-4
LS

Commissioner.

Cherokee Freedmen

D-539, et al.

Muskegee, Indian Territory, November 13, 1906.

V. W. Hastings,

Attorney for the Cherokee Nation,

Muskegee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 8, 1906, and the motion for review of said cases, filed September 7, 1906, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. 8-1
LS

Commissioner.

6

D 446

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUN 17 1901

[Handwritten signature]

COMMISSIONERS:
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Celia Chambers et al for en-
rollment as Freedmen of the Cherokee Nation, one copy of the ori-
ginal testimony of May 31st, 1901.

Mellott Smith

Attorney for Applicants.

Cherokee F. #D446.

Cher Fr R 672

Trans. from Cher Fr D 447

Cher Fr R 892

RECEIVED
FILED
JUN 5 1901

ACTUAL

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHULSEA, I.T., MAY 31st, 1901.

In the matter of the application of Abbie Mayhew for enrollment as a Cherokee freedman; said Mayhew being sworn and examined by Commissioner F. B. Needles, testified as follows:

- Q What is your name? A Abbie Mayhew.
Q How old are you? A I am about 58.
Q What is your post office? A Hudson postoffice.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever been recognized by the Cherokee Authorities as a Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A I suppose so.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Uri Mayhew.
Q Is he living? A Yes, sir.
Q Were you ever married before? A Yes, sir.
Q What was your former husband's name? A Arthur Ball.
Q Is he living? A No, sir, he is dead.
Q Were you ever married before? A No, I married to Arthur Ball and then to Mr. Mayhew.
Q What was your mother's name? A Charity Stover.
Q Your maiden name was Stover? A Yes, sir; one of my names was and then they transferred me to Mose Ward, a Cherokee.
Q You say you don't know whether your name is on the roll of 1880 or not? A Yes, sir, I guess it is.
Q Did you draw what is known as Strip money? A Yes, sir.
Q Who do you want to enroll besides yourself? A Just myself.

- The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.
BY MR. SMITH, of firm of Mellette & Smith, Attorney for Applicant:
Q Your first husband's name was Ball? A Yes, sir.
Q When did you belong to you say? A Mose Ward.
Q He was a Cherokee Indian was he? A Yes, sir.
Q Where were you when the war broke out, A I was at Mose Ward's.
Q Where was Mose Ward living at that time? A Living at Beaty's prairie.
Q Did you go out of the Cherokee Nation during the war?
A Yes, sir.
Q When did you come back? A '66.
Q Who did you come back with? A Along with the Webbers.
Q What Webber was that? A Sam Webber.
Q What kin are you to Celia Chambers? A Half sister.
Q Where did you come to in the Cherokee Nation in 1866?
A On Big Creek.
Q Where have you been living ever since? A Up there.
Q What was your husband's name, Ball; what was his first name?
A Arthur Ball.
Q What was he? A He was a state-man.
Q Did you marry him according to the Cherokee law? A Yes, sir.
Q Where did you get these papers (papers produced and shown to applicant)? A I got them from the Cherokee Clerk, permits.
Q When were you and Arthur Ball married, and where were you married?
A We was married in about '80, I think it was along about then.
Q Were you ever married to him more than once? A Yes, sir, I married him up in the State.
Q Did you ever marry him after that according to the Cherokee law?
A Yes, sir.

MR. SMITH:--I desire to offer the marriage license of the Cherokee Nation authorizing the marriage of Abbie Ward to Arthur Ball, a citizen of the United States.

Abbie Mayhew--2.

Q Where did you get these papers, from Tibble? A We got those from the Dawes Commission; they printed that all that was married according to Cherokee law to take the papers before a Notary public.

Q Did you ~~before~~ go before a Notary Public at Vinita? A Yes, sir; I went down there and had it made out, and this is the returns I got from the Dawes Commission.

Q Where are the papers that the Notary, Mr. Tibble, copied?

A He has got them I guess; we sent them to the Dawes Commission and they didn't send them back, but ~~they~~ we got this.

MR. L. B. BELL, Cherokee Representative: Objected to because it is a copy of the original and the original is in existence and is the best testimony.

BY MR. SMITH: If the Court please, I will offer this at this time and state that I will make an effort to produce the original from Judge Tibble.

BY MR. L. B. BELL:

Q Did you apply to the Dawes Commission for enrollment?

A I did what they said; it was printed in the Cherokee Advocate for all that had Cherokee license to bring them to Tibble and we carried them.

Q Did you go or did your husband, Wand? A My husband went.

A Do you know whether he applied to the commission or not?

A Yes, sir; you know he had to do it, or he would not have got them from the Dawes Commission.

The records of the Dawes Commission examined and show that application was not made for the Applicant and her husband.

BY COM'R NEEDLES:

Q When did you marry Mayhew? A Been about 13 months I guess.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 138, #3433, Abbie Ball, Coowescoowee District.

COM'R NEEDLES: Abbie Mayhew applies for the enrollment of herself. Upon examination of the roll of 1880 her name is not found. She avers that she was first married to one Arthur Ball, and she is duly identified upon the Kerns-Clifton roll as Abbie Ball. She avers that she is married now to one Uriah Mayhew. She is duly identified and makes satisfactory proof as to residence. By reason of the fact that her name is not on the roll of 1880 and of a protest of the Cherokee Nation said ~~man~~ Abbie Mayhew will be listed for enrollment as a Cherokee freedman on a doubtful card, and the final decision of the commission will be made known to the applicant at her post office address.

Reference is made herein to the application made by Celia Chambers, who is enrolled on Doubtful Card #446, and the testimony in said case will be made a part of the record in the case now at bar.

---00000000---

Albion Mayhew, Jr.

F. G. Reason, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

F. G. Reason

Subscribed and sworn to before me this 3d day of June, 1901.

[Signature]

Commissioner.

76. 18. 1901
DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 31 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 31, 1901
Post Office Hudson, S. C.
District X000

1. Name Age
Owner's name Citizenship
Year Page No. District

Parents:

Father Citizenship
Mother Citizenship

2. Name of wife Emma Maynard Age 58
Owner's name Citizenship
Year R.C. Page 138 No. 3483 District X000

Parents:

Father Citizenship
Mother Emma Maynard Citizenship

Names of Children:

	Year	Page	No.	Dist.
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

Application made by

Stenographer

on R.C. with as Abbie Ball

J. D. Ross

ref to D.H. 6

Represented by Mellette & Smith, Vinita, S. C.

VA

ACTING

[illegible]

THESE ARE THE NAMES OF THE

1990

To be filed with case of

Abbie Mayhew *CD 447*

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHULSEA, I.T., MAY 31st, 1901.

In the matter of the application of Celia Chambers for the enrollment of herself, husband, three children and one grandchild as Cherokee Freedmen; said Chambers being sworn and examined by Commissioners T. B. Needles; testified as follows:

APPEARANCES:

Mallette & Smith, Attorneys for Applicants;
L. B. Bell, Cherokee Representative.

- Q What is your name? A Celia Chambers.
Q How old are you? A I count myself near 58 years old.
Q What is your post office? A Hudson.
Q What district do you live in? A Coowescoowoo.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Seven children, three of them.
Q Three of them is of age? A Yes, sir.
Q Four then you have got? A Yes, sir.
Q Are you married? A Yes, sir, Charlie Chambers is my husband.
Q Is he a citizen? A Yes, sir, he is on the 1880 roll.
Q Has he been enrolled? A No, sir, he ain't been enrolled yet.
Q Don't you want to enroll him and yourself and family all together? A Yes, I guess so.
Q Are you on the 1880 roll? A I am on the Wallace and Kern and Clifton.
Q Not on the roll of 1880? A No, sir.
Q What are the names of your children? A The single boy is named Aleck Adair.
Q What is the name of the next child? A Galdy Adair, 18.
Q What is the name of the next one? A Elsie May Adair, 15.
Q How old is Elsie May? A She is 16.
Q Well, now the next child? A That is all, there is three, there is four of age; Elsie May has a child, I have a grandchild.
Q What is the name of the child? A Lela Whitmire.
Q How old is Lela Whitmire? A Nine months.
Q What is the name of the father of Lela Whitmire? A William Whitmire.
Q What is the mother of Lela? A Elsie May.
Q Is she married to Whitmire? A No, sir, he married another girl not long ago.
Q They were never married? A No, sir.
Q Why isn't your name on the roll of 1880? A The Indians didn't put me there.
By Mr. Smith, Attorney for applicants:
Q How old did you say you were? A I count myself near about 58 I don't really know.
Q Now, who was your mother? A My mother is dead, I never did see her.
Q Was you a slave yourself? A Yes, sir.
Q Who was your owner? A Jeff Parks.
Q Was he a Cherokee Indian? A Yes, sir.
Q Where did he live? A Lived on Grand river, east of Grand river in, I have forgot that district.
Q Was it in the Cherokee Nation? A Yes, sir.
Q Where were you when the Civil War commenced? A I was right there at home.

Q Did you go out of the Nation during the war? A Yes, sir, I went out with the soldiers.

Q Where did you go to during the war? A I was cook for 'em; stayed with 'em and cooked for the federals.

Q Well, where did you go to, if you know? A After I went home?

Q No, when you went out of the Nation where were you?

A Why, I went up to Fort Scott.

Q What time did you come back to the Cherokee Nation after the war?

A I came back in the fall of '66.

Q Did you have any children at that time; at the time you came back here in 1866? A I was married in Kansas and stayed there one year and came back and didn't have any children.

Q Where were your children born? A On Big Creek.

Q In the Cherokee Nation? A Yes, sir.

Q And were they, give their names? A Ben Adair, Josie Adair, Abbie Adair, Peter, Goldy and Elsie May Adair, there was seven of them.

Q Were they all born in the Cherokee Nation? A Yes, sir; their father is dead.

Q Where do you live now? A Live up on Big Creek.

Q How long have you lived there? A I have lived there ever since I have been here.

Q Have you lived in the Cherokee Nation ever since you came back here in 1866? A Yes, sir; never went to Kansas to do a day's work in my life.

Q Who is your husband at this time? A Charlie Chambers.

Q Where is your husband Adair? A He is dead.

Q When did he die? A He has been dead about 19 years I guess.

Q Are all of your daughters married? A Yes, sir, all married ones sitting back there.

Q What are their names? A Josie Brown.

Q What is the other's ones names? A Abbie Rowe and the boy is named Ben Adair.

Q Are you on the Kern-Clifton roll? A Yes, sir, I am on there.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's names not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 138, #3432, Celia Chamber, Coconawacoo District.

By Com'r. Needles: What was your name before you married Adair?

A My name was Celia Parks.

Q Was Adair your first husband? A Yes, sir; Parks, that is my owner's name.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 134, #2793, Celia Parks, Coconawacoo District.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and names of applicant's children found thereon as follows:

Page 139, #3441, Elsie Adair, Coconawacoo District.

Page 139, #3442, Goldy Adair, Coconawacoo District.

Page 139, #3443, Elsie Adair, Coconawacoo District.

By Mr. Smith: Where are those three unmarried children, Alack, Goldy and Elsie Adair at this time? A Right at home with me.

Q Have they always lived with you? A Yes, sir, they always lived with me.

Q Are these the only three of your children that are under 21 years of age? A Yes, sir.

Q Are the others all over 21 years of age? A Yes, sir.

By L. B. Bell, Cherokee Representative:

Q Where did you return to when you came back in '65, did you say?

A Up on Big Creek.

Q Who was with you? A My husband was with me and I come with the Webber Attachment.

Q Berry Ward? A Berry Ward that's dead.

Q Dave Mayes? A No, sir, Berry Ward come and George Adair, my husband.

Q Sam Webber attachment was it? A Yes, sir, and my husband what's dead come along.

Q Well was Berry Ward along? A They was just so many I just don't really know and they was all strangers to me.

Q Did Dave Mayes come along? A Yes, sir, I think he did; I just really don't know.

Q Johnson Webber? A Yes, sir, Johnson Webber, yes, sir.

Q Did they all bring their families? A Johnson Webber never had any family only a woman and two little girls.

Q You don't know whether he brought his family or not?

A No, sir, I don't to tell the truth I don't.

Q Well did Dave Mayes bring his family? A Dave Mayes; yes, sir, I think he did.

Q You must have been 20 years old or over? A I don't nothing but a girl but I was married, I married at 18 years old, and of course it has been so long back and I have told this story

Q I will give you all the advantage of that you start in when you were 20 years of age? A I can't read and write.

Q You were a grown woman and married when you come back?

A Yes, sir.

Q You can remember something of these families that come back with you? A I think Dave Mayes come back.

Q No, of all them families you can't recollect any one distinctly?

A Yes, sir, I can remember some.

Q Tell me some that come with you? A Well there was Daniel Rowe for one.

Q Where did you stop, whereabouts on Big Creek did you stop?

A I stopped, well about ten miles from where I live now, down the Creek.

Q You moved up the Creek from where you stopped. A Yes, sir.

Q Well down there in that neighborhood anywheres around, was any people living? A No, sir.

Q Not a soul? A No, sir.

Q Well, didn't you appear before this Clifton-Kearney?

A Yes, sir.

Q You didn't swear that there were some Delaware Indians there did you by the name of Fall-leaf? A Yes, sir, but I made a mistake about that.

Q Well what was the mistake? A I just made a mistake; I didn't swear it the way I went to tell it and I caught it that I wasn't telling a straight tale.

Q You are telling a straight tale now? A Yes, sir.

Q Who was your mother? A I don't know.

Q Who was your father? A My father is dead, I never saw him.

Q Who did you belong to? A Jeff Parks; first place I belonged

to S over and I went from Stever to Jeff Parks.

How old were you when Jeff Parks bought you? A I don't know.

You were not large enough to remember? A No, sir.

What time of the year did you come to Big Creek? A In the fall

'65.

Q Who was the Captain of the crew that come down with you?

A Well, sir, I just don't know, just what is just what I don't know.

ORIGINAL -
AVAILABLE COPY

you asked me for the truth and I am going to tell you the truth, I just don't know.

Q Was Aaron Webber with you? A I don't know whether Aaron Webber, but this little one out here.

Q You know now he was along with you? A Yes, and the old man Webber what's dead.

Q What was his name? A Samuel Sam Webber.

Q What did you say about Aaron Webber coming? A Little Aaron come and I don't know many other one, there was one was a preacher.

Q Did you state who this little grand child of yours, whose child it is? A It is Elsie May's, my baby girl.

By Com'r Needles: What was your first husband's name? A George Adair.

Q Is he living? A No, sir, he is dead, he is the father of all these children.

Q Your present husband is named Charlie Chambers? A Yes, sir.

SAM WEBBER, being sworn by Commissioner Needles, testified as follows: BY MR. SMITH:

Q State your name? A Sam Webber.

Q Where do you live? A I live two mile west of Mount, Coconococow district.

Q How long have you lived there? A I moved there from Big Creek about two years ago.

Q How long have you lived in the Cherokee Nation? A Well, I was born and raised here, I went out and came back after the war.

Q Are you a Freedman? A Yes, sir.

Q Are you on the 1860 roll? A Yes, sir.

Q To whom did you belong? A Abby Webber.

Q Did you go out of the Cherokee Nation during the war?

A Yes, sir.

Q When did you come back? A I came back in July, 1866, and went by here on Big Creek along in August.

Q Was that the first time you came back to the Cherokee Nation before that? A No, sir, I came down before that.

Q Do you know this applicant, Collie Chambers? A Yes, sir, I know her ever since she came to Big Creek, a short time after I got acquainted with her.

Q Do you know of your own knowledge to whom she belonged?

A No, sir, I could not tell you that.

Q You say you have known her ever since she came here, when was that? A That was in the fall of '66.

Q Where did you first get acquainted with her? A In Kansas.

Q Do you know when she came back to the Cherokee Nation after the war? A She came back in the fall of '66.

Q How do you know that? A I was in the crowd.

Q Did she come back in the same crowd? A Yes, sir.

Q Where did she go to? A She came to Big Creek.

Q Is the Cherokee Nation? A Yes, sir.

Q Tell me you know where she has been living since? A She lived there on Big Creek, two mile above where she used to live.

Q Have you seen her from time to time since that time?

A Yes, sir.

Q Are you acquainted with her family? A Not enough to know them, I know them enough to know them when I see them, I can't call their names, I know the boys when I see them.

Q Where did you first see them in Kansas? A In Land County, near Mount City.

Q About how long before you brought her back here? A I don't know exactly, two or three, two years I guess, I got it something like that, I don't know exactly, but I seen her there, she was living with an old gentleman by the name of George Adair.

Q Do you know when he died? A Not exactly, he died here on Big Creek though, but I don't know exactly when he died.

Q When did he come back? A He come with us when we come in the fall.

By Mr. Bell: When did you come down first, Webber? A When I first come to the Nation?

Q Yes. A In the fall of '65 and went to Gibson.

Q How long did you stay there then? A To Gibson?

Q Yes, how long did you stay in the Territory? A Oh, stayed in the country until March, '66, wintered here, hunting.

Q Then what become of you, did you go back to Kansas? A Went back to Kansas.

Q Whereabouts to? A Lind County, near Mound City, six miles of Mound City.

Q Then when did you return here? A We come down in the latter part of July and built on Big Creek.

Q You come back in July, '66? A Last week in July.

Q Did you come with that crowd of prospectors that come and built some houses and went back to Kansas? A Yes, sir.

Q How long were you here building these houses? A Wasn't here over three weeks as near as I can remember.

Q Then you returned to Kansas after that? A Yes, sir.

Q When did you get back to Kansas? A Up there sometime in the latter part of August.

Q And then when did you fix to move? A Just as soon as we could sell out our crops and come.

Q What time was that? A Along in the fall.

Q Along in the fall covers a hundred days nearly?

A Not exactly a hundred days, we wasn't longer than we could sell out.

Q Were you there in October or November? A I won't be certain but we come before cold weather.

Q You didn't come later than November? A Not later than that, I know we was not gone long, we was in a hurry to get back, we brought plows down here and was in a hurry to get back.

Q Did you get back down as early as October? A I won't say, I ain't certain and won't say; we was back here before cold weather that fall. We went up there and russed around terrible to get back because we wanted to get here and get fixed up before cold weather.

Q Was there any settlers on Big Creek when you come? A No, sir, when we was hunting claims we run up against John Riley and they said we was here three days, and run up against John Coker and he said we are just here.

Q Where was that? A Down here on Verdigris.

By Com'r Needles: How old are you? A About 58.

Q What is your post office? A Nowata now.

Q Are you a recognized Freedman of the Cherokee Nation?

A Yes, sir.

Q On the 1880 roll? A Yes, sir.

By Mr. Smith: Who else was in this crowd you speak of that this applicant was in? A Last crowd, I could not name all the people that come.

Q I am talking about the crowd that this woman, Selie Chambers, was in; was any of her people besides herself in the crowd?

A Her husband was along and several others.

Q Do you know Abbie Ward, her sister? A She don't go by Ward now, does she?

Q No, what is her name now, Abbie Mayhew? A I am acquainted with her; she went by some other name then, Abbie Ball.

Q Do you know her? A Yes, sir.

Q How long have you known her? A About since I knowed this other one, about the time I got acquainted with this other one.

Q When did you first see her in the Cherokee Nation after the war?

A I saw her in the fall of '66.
Q Well, where did you see her in the Cherokee Nation?
A On Big Creek.
Q How did she get there? A She came with these other folks,
we all came together.
Q With what other folks, her sister? A Her sister.
By Mr. Bell: Do you know anything of her birth or parentage?
A No, sir.
Q Do you know anything of this Celia Chambers's birth or parentage?
A No, sir.
Q You don't know whether they were Cherokee Freedmen or not?
A Only what they say.
Q Well, I am asking you what you know? A I don't know.
By Con'r Needles: She was a Freed woman in '66 wasn't she?
A Yes, sir.
By Mr. Smith: Do you know where she lives now? A Up on
Big Creek.
Q How long has she lived there? A Ever since '66.

JIM ALBERTY, being first duly sworn by Commissioner T. B.
Needles, testified as follows: By Mr. Smith:

Q State your name. A Jim Alberty.
Q How old are you? A 70 years old.
Q Where do you live? A I live in Saline district, eight miles
east of Chouteau.
Q How long have you lived in the Cherokee Nation? A I am 70
years old, I have lived there that long.
Q Have you lived in the Cherokee Nation all your life? A Yes, sir.
Q Do you know this applicant, Celia Chambers? A Yes, sir.
Q How long have you known her? A Known her from the time she was
a girl up until now.
Q Do you know who her owner was? A I know who her first owner
was; her first owner was Stover.
Q What Stover was, that? A John Stover, lives this side of Mayes-
ville.
Q Where did you first see her after the war was over?
A Right on the east prong of Big Creek in 1866.
Q In the Cherokee Nation? A Yes, sir.
Q Do you know her, Abbie Ball, or Mayhaw?
A I have saw her, I have no acquaintance with her.
Q Do you know anything about when she came back to the Cherokee
Nation? A No, I could not tell that.
Q You don't know? A No, sir.
By Mr. Bell: Were you living on Big Creek, Jim, at the time
you saw this Celia Chambers? A Yes, sir; that is Tobe Martin was
on my place there.
Q About what time of 1866 was it? A It was in the fall of '66
when I saw her.
Q A long in September or October? A I can't give you any date.
Q It was either in September, October, November, or December?
A It was along in there somewhere, I can't give you any date.
Q You say Tobe Martin was on your place? A Yes, sir.
Q What Tobe Martin was that? A Tobe Martin that used to belong
to Jim Vann; he is out here now.
Q When did you make that place? A I made it before, about the
time them folks first begin to come in on Big Creek, Fussy Brown
owns it now.
Q You made it sometime about three months before these folks come
back? A I don't know; I had it a year or two before you came down
to the salt lake and bought salt there.
Q You made it in the year '65 then, did you? A No, in '66.
Q What time, in the spring? A No, in the fall.

Q Was you living up there at the time you saw this woman?
A No, sir; Daniel Hicks had bought that old Marown place and I had Tobe up there.
Q You said you saw this woman up on Big Creek there in '66?
A I was building my house and they was not.
Q You said Tobe was living up there? A You said where I was when you saw them; I was up there and she come there and after that I put Tobe there and they come down before.
Q You put Tobe in the house after you saw this woman?
A Yes, sir, that is the way it is.
Q That's better? A That is the way it is.
Q Who was John Stover you saw that was the first owner of this applicant? A He was a white man, married & Cherokee.
Q Where did he live when you knew him? A He lived right this side of where you used to live, you know this side of Mrs. Buffington, between there and here.
Q That was up by Beatty's prairie? A Yes, sir.
Q Now whereabouts on Beatty's prairie did he live?
A Oh, now you have gone to where I can't go; I told you this side of Waynesville; I can't tell you a spot in any country; it was this side of Waynesville, this side of Jack Bell's where you lived.
Q Now, a house, lot and fields, is a good deal bigger than a girl?
A Yes, sir.
Q You recollect all about the girl and don't recollect the place?
A I cared about the girl and I didn't care about the place.
Q How large was she when you first saw her? A She was a good bit of a girl.
Q About how old was she? A I don't know; I don't know how old I was myself and I can't give you any age.
Q Down about ten years? A I don't know.
Q You don't know how high she was? A She was a girl about as high as that (indicating).
Q Did you ever see her more than once? A I have seen her lots of times.
Q How long did that time go on? A Every time I would go up there to ride mile heats, Jim Kell's; you know where that is better than I do.
Q What was her mother's name? A I don't know; I don't really know whether I have saw her mother or not.
Q You were never up there and seen her after that race track was abolished and quit running? A No, sir, of course I never seen her after that.
Q Do you know what became of her after you left there? . .
A No, sir, I don't.
Q You don't know whether she was sold or otherwise? A I don't know anything about it.
By Mr. Smith: What you have just been stating, was that before the war or after the war? A When she was a girl?
Q Yes? A That was before the war; I know her then and knew her to be . .
By Mr. Bell: That racing quit there about '60, didn't it?
A I don't know a thing about that; you want to fetch me to something I don't know anything about.
Q All you know you went there to ride races? A Yes, sir; I went there to ride races.

ABDIE MAYHEW, being sworn by Commissioner T. J. Needles, testified as follows: By Mr. Smith:

Q State your name? A Abbie Mayhew.
Q Do you know Abbie Chambers? A Yes, sir.

Q Are you related to her? A Yes, sir.
Q What kin are you to her? A Half sister.
Q How old are you? A I just don't really know my age for certain.
Q Which is the older you or Celia? A I am the oldest, she don't know anything about her mother.
Q Are you married or single? A I am married.
Q Were you a slave? A Yes, sir.
Q Whom did you belong to? A I first belonged to Mr. Hastings' grandmother.
Q What was her name? A Her name was Charlotte Stover.
Q Whom did you belong to after that? A They sold me to Hose Ward.
Q Whom did you belong to when the war broke out? A Hose Ward.
Q Who was he? A Cherokee.
Q Where did he live? A Up there about Hayesville, place called Beatty's prairie.
Q Lived in the Cherokee Nation, on Beatty's prairie? A Yes, sir.
Q Did you go out of the Cherokee Nation during the war? A Yes, sir.
Q Where did you go to? A I went on up to Fort Scott.
Q When did you come back to the Cherokee Nation after the war?
A I came back in the fall of '66.
Q Who did you come back with? A Sam Webber attachment of them.
Q Did you come back at the same time your sister came back?
A Yes, sir.
Q Where do you live now? A I live on Big Creek.
Q In the Cherokee Nation? A Yes, sir.
Q How long have you lived there? A I have lived there ever since.
Q Ever since you came back in '66? A Yes, sir.
Q Well to whom did your sister, Celia, belong? A John Stover, same person I did, I and her belonged to the same people.
Q Do you know whether John Stover sold her before the war or not?
A Yes, sold her before the war when she was a little bit of a girl sold her to Ann Parks.
Q Who was Ann Parks? A Johnson Thompson's sister.
Q Was she married? A Yes, sir.
Q What was her husband's name? A John Parks.

Com'r Needles:--Celia Chambers applies for the enrollment of herself and three children, to-wit: Aleck Adair, Goldy Adair and Elsie May Adair, and for her grandchild, Lela Whitmire, whom she avers is the child of her daughter, Elsie May Adair. Her name is not found upon the authenticated roll of 1880 or the census roll of 1896; she is duly identified upon the Kern-Clifton roll as Celia Chambers and upon the Wallace pay roll as Celia Parks, that having been her maiden name. She avers that she was married to one Adair, who is the father of these children for whom she applies, and the names of said children, Aleck, Goldy and Elsie M. Adair, are identified upon the Kern-Clifton pay roll. The name of her grandchild, Lela, is not found upon any of the rolls, having been born after the rolls were compiled. She is duly identified, but for the reason that her name is not found upon the authenticated roll of 1880, and for the further reason that their citizenship is contested by the Cherokee Nation, Celia Chambers, her three children and her grandchild, as enumerated herein, will be listed for enrollment as Cherokee Freedmen on a doubtful card, awaiting further consideration of the Commission. It will be necessary for her to file with this Commission satisfactory proof of the birth of said Lela Whitmire, before the enrollment of said Lela Whitmire will be complete. She will be duly notified when the decision of the Commission is arrived at.

NO. 8-1031
EX. 11 D
COMMISSION TO THE FIVE CIVILISED TRIBES
DEPARTMENT OF THE INTERIOR

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilised Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 20th day of August, 1901.

[Signature]

Commissioner.

RECORDED
INDEXED
AUG 21 1901
U.S. DEPT. OF THE INTERIOR

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
day of A. D. 1901.

Given under my hand this
day A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
day of , 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } ss. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A.D. 1901

Subscribed and sworn to before me
this day of A.D. 1901.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
SEP 24 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF The application of Abbie Mayhew
for enrollment as a Cherokee Freedman:

Case No. F. D. 447

To Abbie Mayhew Hudson I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on the following dates, to-wit: Oct. 26th at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 13 day of 1901.

L. B. Bell
M. J. Lane
Attorneys for the Cherokee Nation.

AFFIDAVIT,

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss

In the matter of the application of Abbie
Mayhew for enrollment as a Cherokee Freedman.

No. F. D. 447

Henry Pack, of lawful age, being duly sworn on
oath states that on the 13th day of September, A. D., 1901, he registered
to Abbie Mayhew whose postoffice is Hudson
Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto
attaches the receipt of the Postmaster at H. Gibson Indian Territory;
and that on the 24th day of September, 1901, he received the return
card which is hereto attached, signed by the said Abbie Mayhew showing
that he had received said notice.

Subscribed and sworn to before me on this the 24th day of September, A. D. 1901.

J. C. Starr
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 29th, 1901.

In the matter of the application of Abbie Mayhew for enrollment as a Cherokee Freedman; the following supplemental testimony is offered on part of the Cherokee Nation:

APPEARANCES:

Mellotte & Smith, Attorneys for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation:

A. R. WAYNE, being duly sworn and examined by Commissioner Breckinridge, testified as follows on part of the Cherokee Nation:

- Q Give me your full name? A A. R. Wayne.
Q How old are you? A I am 58 years old.
Q What is your post office? A Mound City, Linn County, Kansas.
Q Are you a citizen of the state of Kansas? A Yes, sir.
MR. DAVENPORT: How long have you lived in and near Mound City, Kansas, Mr. Wayne? A I have lived there continuously except a little over three years I was in the war, since 1855.
Q Did you know a colored family up there by the name of Ball; did you get acquainted with them? A I know all of the Balls.
Q What was the families name you got acquainted with?
A Arthur Ball and Spence Ball.
Q Did Arthur Ball have a wife? A Claimed her as wife and I understood he was married.
Q Did you know what her name was? A Yes, sir.
Q What was her name? A They called her Abbie Berry that is what she called her name.
Q Do you know whether or not she lived up there before she and Arthur Ball went to living together? A Yes, sir.
Q Who did she live with before she went to living with Arthur Ball?
A Yes, sir, I first knew her she was living in the family of Anderson Turk.
Q Then did she afterwards live together with Arthur Ball as his wife? A Yes, sir.
Q When did you first get acquainted with Abbie Ball, or Berry, Mr. Wayne? A It was in '68.
Q Where was she living at that time? A About four miles and a quarter northwest of Mound City.
Q When did you get acquainted with Arthur Ball? A Well, it was a number of years before that; I could not tell you.
Q You had known Ball before you did Abbie? A Yes, sir.
Q Well, now, then, when was the last time you know of your own knowledge they were living in that neighborhood or country there, what year? A Well, I know they were living there in 1879.
Q Were you at their house, or Ball with you, or anything that makes you remember that? A Yes, sir.
Q Well, what was the circumstances that makes you remember?
A There was quite an excitement in that country in regard to land and I got somewhat interested and I heard there was a colored man at Iola, about 35 miles from where I lived and I got this Arthur Ball for to go with me as he was acquainted with this colored man and we had a conversation.
Q That was in what year? A That was in 1879.
Q Do you know where Arthur was living with his wife, Abbie? They was living there in Mound City, or about a mile and a half, they were living out after that on the place, he had a little farm and lived there for a while, but at that time I did not hear.
Q When she left that country was she and Arthur Ball living together as man and wife? A Yes, sir.
Q You don't know where they went to? A No, sir.

Mr/ SMITH: Well, Mr. Wayne, you don't know that this woman, Abbie, was this man's wife, or that she lived with this man except what you heard? A No, sir, no more than any other family there is in my community.

Q Well, you say that you heard they lived together? A Yes, sir, and I heard they was married.

Q Where did you get acquainted with this woman? A The first time I ever saw her was in the family of Anderson Turk, about four miles and a quarter northwest of Mound City.

Q That was in 1868? A Yes, sir.

Q You didn't know anything about her prior to that time?

A I did not; I may have met the lady before that but at that time is all I can call to mind.

Q Well, how long did she live at the place you saw her when she was living with Anderson Turk? A I don't think she lived there a great while until she went to Mound City and worked in the Hughes Hotel.

Q What was she doing? A Looking.

Q Was hired out and worked? A Yes, sir.

Q You never saw her with this man you are talking about?

A Except on one occasion.

Q Where was that? A It was about Mound City.

Q When was that? A It was when me and Arthur & went to Iola?

Q How long had it been since you had seen her before that, do you know; seen her after she worked in that hotel that time?

A No, sir, I think they were married when she was working in the hotel.

Q Well, now, how long was that before you saw her with Anderson Turk? A ~~That~~ I saw her around there for several years.

Q Well, you saw her at the hotel; how long was that from the time you first saw her? A I think don't think it was more than six months.

Q Well, did you ever see her again until you saw her after you made this trip you were speaking about? A No, to my knowledge only once.

Q Only once? A That is all to my knowledge.

Q So that makes--you don't remember the last time you saw her, the year it was? A No, sir, I remember her after that, I remember the circumstance that happened.

Com'r Breckinridge: This will be filed as supplemental testimony in Cherokee Freedmen case D.#447, of Abbie Mayhew, and also in Cherokee Freedman case D.#446.

---ooo000pao---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this November 7th, 1901.

[Signature]

Commissioner.

"R"

File with C. F. D-447, Abbie Mayhew.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in the matter of the application of Celia Chambers, et al., for enrollment as Cherokee ~~xxx~~ Freedmen, D-446.

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I.T., attorneys for the applicants;
W.W.H. J.S. Davenport, of attorneys for Cherokee Nation.

W.H. NOBLE, being sworn and examined testified as follows:

BY MR. DAVENPORT:

Q What is your name? A W. H. Noble.
Q Where do you live? A On Big Creek.
Q How long have you lived on Big Creek? A About thirty odd years.
Q Where is Big Creek? A It is in Cooweescoowee District.
About the center of Cooweescoowee District.
Q Running to the Kansas line from the Cherokee Nation? A Yes sir.
Q You know Celia Chambers? A Yes sir.
Q How long have you known her? A I have known her as Mrs. Adair, George Adair's wife, until the last four or five years, when she married Chambers, right there in my neighborhood, right under me.
Q You say she was living with Adair? A Yes sir, George Adair.
Q When did she first come into your neighborhood there on Big Creek? A I think as well as I can recollect in the spring of 1870.
Q Who did she come there with? A George Adair and George Adair's wife.
Q You had been living in that country since when on Big Creek? A Ever since about '64, '5 I guess, '66 probably. '66 when I moved over on to Big Creek, about '66.
Q How far is she living now from where she first came in that country and settled? A Right in the first place where she settled; right on the same farm., where she settled in '70 or '71, lived on the same place yet.

BY MR. MELLETTE:

Q Mr. Noble, when did you locate on Big Creek? A I think it was in about '67, that I went there first.
Q What time in '67? A I think I went there first along in the winter of '67 and then commenced improvements there in the spring of '67.
Q Where did you go from when you went on Big Creek there? A From Cabin Creek.
Q U close to Chetopa, Kansas? A Yes sir.
Q What Freedmen cases was it you testified in at Vinita? A I could not say now.
Q Now Mr. Noble, you remember that you were brought in there at Vinita before this Commission as a witness in the Freedmen cases, and you testified that you were living up near Chetopa, Kansas, and in '67 on Cabin Creek, didn't you? A I was on Cabin in '67 and I was also on Big Creek in '67, all the same.
Q What part of '67 did you go over on Big Creek? A I couldn't say at to that just what time, but sometime in the spring of the year, I went over there.
Q Now didn't you testify in Eliza Gaines' case that you were living up near Kansas, Chetopa, Kansas, in the fall of '67? A I could not say as to that.
Q Now you remember the case very distinctly don't you? A I could not say for that, I was there on Big Cabin and I was also on Big Creek in '67 both; they are near about eight miles apart.
Q You don't remember when you testified in the Eliza Gaines case

there what year the war closed, did you? A I think not, just at that time, but I could afterwards.

Q What? A I didn't at that time, but I could afterwards.

Q Now you are willing to swear positively that you moved to Big Creek in '67 are you? A Yes sir.

Q What time did you permanently locate on Big Creek in '67? A We went there in the spring and I moved my stuff there during the summer of '67.

Q Then you were not on Cabin near Chetopa, Kansas, in the fall of '67? A No, principally, yes.

Q You didn't live there? A I lived with my uncle, yes, at that time I was a young man.

Q You didn't have any regular home at that time? A No sir, not then.

Q You don't know where Celia Chambers came from when you first saw her? A She was on Big Creek when I first saw her.

Q You don't know where she was before that though? A No sir.

Q She might have been in that country so far as you know? A Not up in that section.

Q Did you see everybody up in that country? A In that year I was all over that country.

Q You don't pretend to swear that you saw everybody in that country do you? A No sir.

BY MR. BELLETT: I want the testimony of this witness in the Eliza Gaines case made part of the testimony in this case.

BY COMMISSIONER: The request of the attorney for the applicant will be complied with, and the testimony made part of the record.

This testimony will be filed and made part of the record in the following Cherokee Freedmen cases No. D 447, D 449 D 451 D 452 and D 560.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this February 28, 1902.

[Signature]

Commissioner.

1875

Freed D 820

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Mellatte & Smith; Cherokee Nation, by
W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitmire, Trustee for the Freedmen, vs. The Cherokee Nation,
No. 17209 filed in the Mariah Hayden case F D 292, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

Abbie Mayhew, D 447;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree, because, First: It does not tend to show
that the applicant was a slave of the Cherokee Nation at the
beginning of the war, nor that he returned within the time specified
in the treaty of 1863, or that he had been a continuous resident
of the Cherokee Nation since that time, or that he is a descendant
of such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be en-
tertained and the decree of the Court of Claims filed in the case
of Mariah Hayden will be made a part of the record by reference in
all the cases above named with the exception of those which come
within the provisions of the temporary injunction recently granted
by Judge Gill of the United States Court, of the Northern District,
Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named
cases including the Mariah Hayden case that counsel for the appli-
cant be allowed within thirty days to file any of the proof of any
or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings,

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed)

P. G. Reuter,
Notary Public.

I, B. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

Subscribed and sworn to before me this July 29, 1902.

B. C. Bagwell
Notary Public.

SERIES A.

Act of November 5th 1902

NO. _____ CHEROKEE NATION, COOWEESCOOWEE District.

Permission is hereby granted Charles S. Hall a citizen

of the CHEROKEE NATION, to employ James S. Hall as a

1 for the term of ONE MONTH from this date.

FIFTY

"No permit shall be issued for a longer period than Dec. 31, of the year in which the permit is issued."

CENTS.

Given under my hand and seal of office, this the 6 day of Mar 1899

CLERK COOWEESCOOWEE DISTRICT.

Countersigned:

Treasurer Cherokee Nation.

SERIES B.

ACT OF NOVEMBER 5, 1892.

NO. 157

CHEROKEE NATION, COOWEESCOOWEE DISTRICT.

Permission is hereby granted Arthur Hall a citizen

of the Cherokee Nation, to employ J. H. Wingfield as a

farmer for the term of Three Months from this date.

"No permit shall be issued for a longer period than December 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the 1 day of

March 1899

Joe McQuay

CLERK COOWEESCOOWEE DISTRICT.

ARROW PRINT, TANLEQUAN.

COUNTERSIGNED:

Treasurer Cherokee Nation.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

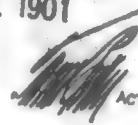
FILED
MAY 31 1901



ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 31 1901



ACTING CHAIRMAN

SERIES E

Act of November 3th 1892

NO 19267 CHEROKEE NATION,

COOWEESCOOWEE

District.

Permission is hereby granted

Arthur Ball

a citizen

of the CHEROKEE NATION, to employ

J. G. Wingfield

as a

farmer

for the term of SIX MONTHS from this date.

\$3.00

"No permit shall be issued for a longer period than Dec. 31, of the year in which the permit is issued."

Given under my hand and seal of office, this 1st

day of January 189

CLERK

COOWEESCOOWEE

DISTRICT.

Countersigned:

TREASURER CHEROKEE NATION.

447
No _____

Arthur Ball.

(1).

vs.

Cherokee Nation

Intermarried &

U. S. Citizen.

Application for
Enrollment.

P. O. Address.

Hudson Ind. Terr.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 31 1901



ACTING CHAIRMAN

Arthur Ball

et al., Plaintiffs,

Vs.

No

CHEROKEE NATION, Defendants.

Application For Cherokee Enrollment.

TO THE HONORABLE COMMISSION TO THE FIVE CIVILIZED TRIBES;

Your petitioners **Arthur Ball** *husband of Abbie Ball* respectfully
represent to your Honorable Commission that **he**
are parents, and

That he is the sole petitioner herein.

are children born in lawful wedlock and are the legitimate offspring of the above named petitioners. That the names and ages of your petitioners who desire enrollment upon the Cherokee roll of citizenship now being made and prepared by your Honorable Commission, together with postoffice address, are as follows:

NAMES	AGE	SEX	P. O. ADDRESS
Arthur Ball	63	Male	Hudson, I.T.

Your petitioners are entitled to enrollment upon the Cherokee roll now being prepared by your Honorable Commission.

BECAUSE: The above named **Abbie Ball nee Ward** is duly enrolled upon what is known as the authenticated roll of the Cherokees made in 1880, and also enrolled upon the roll of ~~_____~~ also upon the roll made by the Cherokees in the year of ~~_____~~ made by the Cherokees and known as the ~~_____~~ roll. Your petitioners further represent that ~~_____~~
Also enrolled upon all subsequent Freedmen rolls.

BECAUSE: Your petitioners ^{wife} ~~were~~ admitted by treaty with the Cherokee Nation under the title of freedmen and are duly enrolled upon the roll of 1880 made in the year of 1880 by ~~and all subsequent rolls~~ the roll.

BECAUSE: Your petitioners above named were married under the laws of the Cherokee Nation on the 26th day of July 1892 ^{Arthur Ball} the said being a U.S. citizen and the said being a Cherokee Freedman evidence of which marriage is hereto attached in the form of a certified copy of marriage license and certificate hereto attached, marked exhibit "A," and made a part hereof.

BECAUSE: Your petitioners were duly admitted as citizens of the Cherokee Nation on the day of A. D., 18. Authenticated copy of said admission is hereto attached, marked exhibit "B," and made a part hereof.

BECAUSE: Your petitioners are duly registered as Cherokees and are enrolled upon the Cherokee roll made in the year of.

Your petitioners further represent that any of the rolls mentioned above are now in the hands of, and in the possession of, the Cherokee Nation authorities, and inaccessible to your petitioners, to which your Honorable Commission are directed, an inspection of which will disclose the enrollment as stated above, and establish the petitioners' right to enrollment as such Cherokees, together with the evidence herewith presented and the record evidence now in the hands of the Cherokee authorities, the use of which in this behalf these petitioners are entitled.

WHEREFORE: Your petitioners above named, pray that they may be enrolled upon the proper Cherokee roll now being prepared by said Commission, as citizens of the Cherokee Nation, under the acts of Congress approved June 10, 1896, and June 7, 1897.

These petitioners do hereby constitute and appoint W. H. Tibbils their true and lawful attorney to represent them before said Commission.

^{Arthur Ball} et al.
By ^{W. H. Tibbils}
Their Attorney.

^{Arthur Ball}, of lawful age, who, being by me first duly sworn, deposes and says, that he is one of the applicants in the foregoing application, that he knows the contents thereof, and that the statements therein contained are true as he verily believes, and further saith not. ^{Arthur Ball}

Subscribed and sworn to before me this 2nd day of August 1897.

^{W. H. Tibbils}
Notary Public

My Com. Ex. March 7, 1900.

MARRIAGE LICENSE.

CHEROKEE NATION, I.T. COOWHESCOOWEE DISTRICT.

TO ANY PERSON LEGALLY AUTHORIZED TO SOLEMNIZE MARRIAGE GREETING.

You are hereby authorized to join in the Holy Bonds of Matrimony, and to celebrate the rites and ceremonies of Marriage, between Mr. Arthur Ball, a citizen of the United States, and Mrs. Abba Ball nee Abba Ward, a citizen of the Cherokee Nation according to the usual custom and laws of the Cherokee Nation, and you are required to return this License to me, for record, within thirty days from the celebration of such Marriage with a Certificate of the same appended hereto and signed by you.

Given under my hand and seal of office this
(S E E) the 18th day of July A.D. 1892.

H. H. Trott, Clerk
Coowhescowee District.

CHEROKEE NATION, I.T. COOWHESCOOWEE DISTRICT.

I, Rev. Jesse Rowe, an ordained Minister, hereby certify that on the 18th day of July 1892, I joined in Marriage, Mr. Arthur Ball, a citizen of the United States, and Miss Abba Ward a citizen of the Cherokee Nation, agreeable to the authority and the customs and laws of the Cherokee Nation.

Given under my hand this the ____ day of ____ A.D. 1892.

Rev. Jesse Rowe.

The within License recorded in the Clerk's Office of Coowhescowee District, Cherokee Nation, on page 143 in Book of Marriage Record on this the 27th of July 1892.

H. H. Trott, Clerk.
per W. H. Drew, Dept.

UNITED STATES, INDIAN TERRITORY, NORTHERN DISTRICT.

I HEREBY CERTIFY: That the above and foregoing are true and correct copies of a Marriage License and a Marriage Certificate now in my possession, and that the same has all the appearance of genuiness.

Witness my hand and Notarial Seal on this 28 day of August, A.D. 1897.

W. H. Gibbs
Notary Public.

My commission expires March 7th, 1900.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Jacob Ross, et al., as Cherokee Freedmen, consolidating the applications of

Jacob Ross, et al.....	Cherokee Freedmen	D	539-
George Ross, et al.....	"	D	540-
Moses Ross, et al.....	"	D	541-
Sarah Allen, et al.....	"	D	543-
Rosanna Skaggs, et al....	"	D	545-
Willie Ross, et al.....	"	D	838-
Thomas Archer, et al.....	"	D	901-
Eli Archer.....	"	D	1002-
Celia Thompson, et al....	"	D	446-
Josie Brown, et al.....	"	D	449-
Benjamin Adair, et al....	"	D	451-
Abbie Rowe, et al.....	"	D	452-
Peter Adair.....	"	D	560-
Frank Whitmire, et al....	"	D	956-
Austin Whitmire, et al....	"	D	974-
Nelson Whitmire.....	"	D	1090-
Abbie Mayhew.....	"	D	447

-: D E C I S I O N :-

The record herein shows that applications were made to this Commission for the enrollment as Cherokee Freedmen by Maria Ross, for herself, her husband, Jacob Ross, her daughter, Ella Ross, and her minor grandchild, Thomas Anderson; the said Thomas Anderson, being differently classified, is not embraced in this decision; by George Ross for himself, his wife, Rose Ross, and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself and her husband, William Skaggs; the said William Skaggs claims only by intermarriage and his rights are not passed upon in this decision; by Willie Ross for himself, his wife, Rosa, and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself and his wife, Georgeann Archer; the said Georgeann Archer claims only by intermarriage and her rights are not passed upon in this decision; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Aleck, Geldy and Elsie May Adair and her minor grandchild, Lela Whitmire; by Josie Brown for herself, her husband, Robert Brown, and their minor children, Turner, Bessie, Gnacie, Claudy and Celia Brown; the said Robert Brown claims only by intermarriage and his rights are not passed upon in this decision; by Benjamin Adair for himself, his wife, Lizzie Adair, and their minor children, Isaac, Ollie, George, Cleveland and Aid Adair; by Abbie Rowe for herself and her minor children, Arthur, Minnie and Abbie Rowe; by Peter Adair for himself; by Frank Whitmire for himself and his minor children, Jesse, Ada, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Minnie, Josephine and Arthur Whitmire; by Nelson Whitmire for himself; and by Abbie Mayhew for herself.

Copies of the testimony, taken at Muskogee, Indian Territory, on April 15, 1902, in the case of Nelson Murrell, et al., Cherokee Freedmen D-548; at Muskogee, Indian Territory, on May 16, 1902, in the case of Mary Harris et al., Cherokee Freedmen D-528; and at Vinita, Indian Territory, on October 3, 1901, in the case of David Martin et al., Cherokee Freedmen D-486, are filed herewith and made a part of the record in this case.

The evidence in this case shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the commencement of the rebellion and were taken out of said nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to said nation within the time specified in the decree of the Court of Claims, rendered on February 3, 1896, in the case of Moses Whitmire, trustee etc., vs. the Cherokee Nation et al., for the return of freedmen to the Cherokee Nation; that Frank Whitmire did return to the Cherokee Nation within the time specified in the decree of the Court of Claims of February 3, 1896, supra.

That Ella Ross, George Ross, Moses Ross, Willie Ross, Rosanna Skaggs, Sarah Allen, Fred Ross, Stella Ross, Emma Ross, Lee Etta Ross and Oscar Tucker are the children and grandchildren of Jacob and Maria Ross, born since 1866, and possess no right to enrollment except as their descendants. That Louisa Burney was born subsequent to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll. That Rose Ross, the wife of George Ross, was born since 1866 and claims the right to enrollment through her father, one Louis Gibson, whose application for enrollment as a Cherokee Freedman has been denied by this Commission. (see Cherokee Freedman D-774). That Eli Archer and Rosa Ross, wife of Willie Ross, were born since 1866 and are the descendants of, and claim the right to enrollment through, Thomas Archer and his wife, Delsie Archer, who returned to the Cherokee Nation with her husband after the rebellion. That Rachel Ross, wife of Moses Ross, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant, Austin Whitmire, Nelson Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Lela Whitmire, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair and Aid Adair are the children and grandchildren of Frank Whitmire, born since 1866, and claim the right to enrollment through the said Frank Whitmire. That Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudie Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe are the children and grandchildren of the said Celia Thompson, born since 1866, and claim the right to enrollment through the said Celia Thompson.

The evidence further shows that Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudie Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Abbie Mayhew are not identified upon the Cherokee tribal roll of 1880.

It further appears that Frank Whitmire has resided continuously in the Cherokee Nation since his return thereto, in 1866, with the exception of about one year when he had a temporary residence in the State of Missouri, and the the applicants Lela

Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire, and Louisa Burney have resided in the said nation since birth.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Emma Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson, (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celia Brown, Abbe Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Abbie Mayhew, as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stat., 495); and it is further the opinion of this Commission that Lela Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Frank Whitmire, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire and Louisa Burney should be enrolled as Cherokee Freedmen, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,

Dec 16 1904

10447

10

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Abbir Mayhew,
Hudson, I.T.

Cherokee F-D-447

Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY,

Cherokee Freedmen
D-339, et al

Muskogee, Indian Territory, December 16, 1904.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, granting the applications for the enrollment of Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair, Lola, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Mineola, Josephine, Arthur and Nelson Whitmire, Ella Bryant (formerly Whitmire), Louisa Burney and Rachel Ross, as Cherokee Freedmen, and rejecting the applications for the enrollment of Jacob, Mariah, Ella, George, Rose, Fred, Stella, Moses, Willie, Rosa, Emma and Lee Etta Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Eli and Thomas Archer, Gelia Thompson (formerly Chambers), Aleck, Goldy, Elsie May, Benjamin and Peter Adair, Josie, Turner, Bessie, Gracie, Claudy and Gelia Brown, Abbie, Arthur, Minnie and Abbie Rowe and Abbie Mayhew, as Cherokee Freedmen.

-2-

You are hereby advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the principal applicants. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Encl. 3-60

(SIGNED)

Tame Bishop
Chairman.

COPY.

Cherokee Freedman
D-447.

Muskogee, Indian Territory, January 7, 1906.

Abbie Mayhew,

Hudson, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, the application for the enrollment of yourself as a Cherokee Freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

James Bixby.
Chairman.

Encl. L-63.

Register.

COPY.

Cherokee Freedmen
D-539 et al.

Muskogee, Indian Territory, January 7, 1905.

Edgar Smith,

Attorney for Mariah Ross et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting, among others, the applications for the enrollment of Mariah, Ella, George, Rose, Fred, Stella, and Moses Ross; Sarah Allen, Oscar Tucker, Rosanna Skaggs, Thomas Archer, Gelia Thompson, Aleck, Goldy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Bessie, Gracie, Claudy, and Gelia Brown; Abbie, Arthur, Minnie, and Abbie Rowe; and Abbie Mayhaw, and granting, among others, the applications for the enrollment of Rachel Ross, Louisa Burney, Lela, Frank, Jesse, Ada, George, and Bessie Whitacre; Lizzie, Emma, Ollie, George, Cleveland, and Aid Adair; and Ella Bryant, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the

COPY

94.

Interior for his review and decision. The action of the Secretary
will be made known to you as soon as the Commission is informed of
the same.

Respectfully,

Encl. 1-01.

(SIGNED)

Tamie Bixby.

Chairman.

COPY.

Cherokee Freedmen
B-339 et al.

Waskagee, Indian Territory, January 7, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted record of proceedings had in the consolidated case of Jacob Ross et al., including the Commission's decision dated December 18, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting the applications for the enrollment of Mariah, Ella, George, Ross, Fred, Stella, Moses, Willie, Rosa, Anna, and Lee Etta Ross; Sarah Allen, Oscar Tacker, Rosanna Skaggs, Thomas and Eli Archer; Oelia Thompson, Elsie, Goldy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Bessie, Gracie, Claudy, and Oelia Brown; Abbie, Arthur, Minnie, and Abbie Ross; and Abbie Mayhaw, and granting the applications for the enrollment of Rachel Ross, Louisa Wurney, Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Winola, Josephine, Arthur, and Nelson Whitwire; Ella Bryant, and Lizzie, Isaac, Ollie, George, Cleveland, and Aid Adair, as Cherokee Freedmen.

Respectfully,

(SIGNED). *Tams Bixby.*
Chairman.

Encl. 1-67.

Through the
Commissioner of Indian Affairs.

LAND:
2223-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

April 1, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated January 7, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Maria Ross for herself, her husband, Jacob Ross and her daughter, Ella Ross; by George Ross for himself, his wife, Rose Ross and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself; by Willie Ross for himself, his wife, Rosa and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Aleck, Goldy, and Elsie May Adair, and her minor grandchild, Lela Whitacre; by Josie Brown for herself and her minor children, Gracie, Claudy and Celia Brown; by Benjamin Adair for himself, his wife, Lizzie Adair, and their minor children, Isaac, Ollie, George, Cleveland and Aid Adair; by Abbie Ross for herself and her minor children, Arthur, Minnie and Abbie Ross; by Peter Adair for himself; by

Frank Whitmire for himself and his minor children, Jesse, Ada, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Mineola, Josephine and Arthur Whitmire; by Nelson Whitmire for himself, and by Abbie Mayhew for herself.

December 16, 1904, the Commission decided favorably to Rachel Ross, Lissie, Isaac, Ollie, George, Cleveland and Aid Adair; Lola, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Mineola, Josephine, Arthur and Nelson Whitmire; Ella Whitmire Bryant and Louisa Burney and adversely to all the other applicants.

The record shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the beginning of the war of the rebellion and were taken out of the Cherokee Nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to the Nation on or before February 11, 1867, but that Frank Whitmire did return prior to said date.

It is also shown that Ella, George, Moses, Willie, Fred, Stella, Emma and Lee Etta Ross and Rosanna Skaggs, Sarah Allen and Oscar Tucker are the children and grand children of Jacob and Maria Ross born since 1866, and possess no rights to enrollment except as their descendants; that Louisa Burney was born subse-

quent to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll; that Rose Ross, the wife of George Ross was born since 1866 and claims right to enrollment through her father, one Louis Gibson, whose application has been denied and the adverse decision affirmed by the Department November 19, 1903 (I.T.D. 6188, 8060-1903); that Eli Archer and Rosa Ross, wife of Willie Ross were born since 1866, and are the descendants of, and claim right to enrollment through Thomas Archer and his wife Delsie Archer, who returned to the Cherokee Nation with her husband subsequent to February 11, 1867; that Rachel Ross wife of Moses Ross, Jesse, Ada, George, Bessie, Austin, Nelson, Cora, Mineola, Josephine, Arthur and Lela Whitmire, Ella Bryant, Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair are the children and grand children of Frank Whitmire, born since 1866, and claim right to enrollment through her.

It does not appear that any of the applicants is identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision is recommended.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

M.M.M. (W)

(COPY)

D.C. 48532-1906.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

CRW
LLB

I.T.D. 3396, 8393, 8445,
8479, 8497, 8583,
8585, 8589, 8649,
8787, 8791, 8793,
8795-1905.

November 2, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 7, 1906, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for the enrollment of Jacob Ross et al. as Cherokee freedmen, including its decision of December 16, 1904, rejecting the applications of Jacob, Mariah, Ella, George, Rosa, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Etta Ross; Sarah Allen; Oscar Tucker; Rosanna Skaggs; Thomas and Eli Archer; Celis Thompson; Elsie, Goldy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Bessie, Gracie, Gladys, and Celis Brown; Abbie, Arthur, Minnie, and Abbie Rowe, and Abbie Mayhew; and granting the applications of Rachel Ross; Yenisa Burney; Lola, Frank, Jesse, Ada, George, Bessie, Austin, Cera, Minnie, Josephine, Arthur, and Nelson Whitmore; Ella Bryant, and Lizzie, Isaac, Ollie, George, Cleveland, and Aid Adair.

Reporting April 1, 1905 (Land 2223), the Indian Office re-

commended that the Commission's decision be approved. A copy of its letter is inclosed.

September 7, 1905, motions for review were filed in the matter of the applications of Moses Ross, Abbie Rowe et al., Gelia Thompson et al., Rose Seaggs, Ella Ross et al., George Ross et al., Jacob Ross et al., Abbie Mayhew, Benjamin Adair, Sarah Allen et al., Eli Archer et al., and Thomas Archer.

There appears to be no proper reason for granting said motions and they are hereby denied.

The Department concurs in the recommendation made, and the decision of the Commission is hereby affirmed.

The Indian Office will notify local attorneys of departmental action.

The papers in the case, including said motions for review, have been sent to the Indian Office for its files.

Respectfully,

E. A. Hitchcock

Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 14 to Ind. Of.

Cherokee Freedmen

D-447.

Muskogee, Indian Territory, November 13, 1906.

Abbie Mayhew,

Hudson, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of your case, filed by your attorneys September 7, 1905, denied.

Respectfully,

LS

Commissioner.

Cherokee Freedmen

D-839, et al.

Muskogee, Indian Territory, November 13, 1906.

Blum & Bulger,

Attorneys for Jacob Ross, et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 10, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed by you September 7, 1905, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. 3-4
LS

Commissioner.

Cherokee Freedmen

D-539, et al.

Muskogee, Indian Territory, November 13, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 18, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed September 7, 1905, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

**Incl. C-1
LS**

Commissioner.

8 D447
DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

JUN 17 1901

[Signature]

ACTING COMMISSIONER

COMMISSIONERS:
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
G. R. BRACKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Abbie Mayhew for enrollment as
a Freedwoman of the Cherokee Nation, one copy of the original
testimony of May 31st, 1901.

Mellott Smith
Attorney for Applicant.

Cherokee F. #D447.

Cher. Fr. R-893

Cher. Fr. R-893

Trans. from Cher. Fr. D-449

File with F. D. 449, Josie Brown.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., MAY 31ST, 1901.

In the matter of the application of Celia Chambers for the enrollment of herself, husband, three children and one grandchild as Cherokee Freedmen; said Chambers being duly sworn and examined by Commissioner T. R. Needles, testified as follows:

Appearances:

Mellette & Smith, Attorneys for Applicants.
L. B. Bell, Cherokee Representative.

Q What is your name? A Celia Chambers.
Q How old are you? A I count myself near 58 years old.
Q What is your post-office? A Hudson.
Q What district do you live in? A Gooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself?
A Seven children, three of them.
Q Three of them is of age? A Yes sir.
Q Four then you have got? A Yes sir.
Q Are you married? A Yes sir, Charlie Chambers is my husband.
Q Is he a citizen? A Yes sir, he is on the 1880 roll.
Q Has he been enrolled? A No sir, he aint been enrolled yet.
Q Don't you want to enroll him and yourself and family all together?
A Yes, I guess so.
Q Are you on the 1880 roll? A I am on the Wallace and Kern and
Q Not on the roll of 1880? A No sir. (Clifton.
Q What are the names of your children? A The single boy is named
Aleck Adair, 20.
Q What is the name of the next child? A Goldy Adair, 18.
Q What is the name of the next one? A Elsie May Adair, 16.
Q How old is Elsie May? A She is 16.
Q Well now, the next child? A That is all there is three; there
is four of age; Elsie May has a child, I have a grandchild.
Q What is the name of the child? A Lela Whitmire.
Q How old is Lela Whitmire? A Nine months.
Q What is the name of the father of Lela Whitmire?
A William Whitmire.
Q What is the mother of Lela? A Elsie May.
Q Is she married to Whitmire? A No sir, he married another girl
not long ago.
Q They were never married? A No sir.
Q Why is'nt your name on the roll of 1880?
A The Indians did'nt put me there.

BY MR. SMITH, Attorney for Applicants:

Q How old did you say you were? A I count myself near about 58,
I don't really know.
Q Who was your mother? A My mother is dead, I never did see her.
Q Were you a slave yourself? A Yes sir.
Q Who was your owner? A Jeff Parks.
Q Was he a Cherokee Indian? A Yes sir.
Q Where did he live? A Lived on Grand river in, I have forgot
what district.
Q Was it in the Cherokee Nation? A Yes sir.

Q Where were you when the Civil War commenced?

A I was right there at home.

Q Did you go out of the Nation during the war?

A Yes sir, I went out with the soldiers.

Q Where did you go to during the war? A I was cook for 'em, stayed with 'em and cooked for the federals.

Q Well where did you go to, if you know? A After I went home?

Q No, when you were out of the Nation where were you?

A Way I went up to Fort Scott.

Q What time did you come back to the Cherokee Nation after the war?

A I come back in the fall of '66.

Q Did you have any children at that time, at the time you came back here in 1866? A I was married out in Kansas and stayed there one year and come back and didn't have any children.

Q Where were your children born? A On Big Creek.

Q In the Cherokee Nation? A Yes sir.

Q Who were they, give their names? A Ben Adair, Josie Adair, Abbie Adair, Peter, Goldy and Elsie May Adair, there was seven of them.

Q Were they all born in the Cherokee Nation? A Yes sir, their father is dead.

Q Where do you live now? A Live up on Gib Creek.

A How long have you lived there?

A I have lived there ever since I have been here.

Q Have you lived in the Cherokee Nation ever since you came back here in 1866? A Yes sir; never went to Kansas to do, a days work in my life.

Q Who is your husband at this time? A Charley Chambers.

Q Where is your husband, Adair? A He is dead.

Q When did he die? A He has been dead about 19 years I guess.

Q Are all of your daughters married? A Yes sir, all married ones sitting back there.

Q What are their names? A Josie Brown.

Q What is the other's ones names? A Abbie Rowe and the boy is named Ben Adair.

Q Are you on the Kern Clifton roll? A Yes sir, I am on there.

The 1880 authenticated Roll of Freedmen of the Cherokee Nation examined and applicants names not found thereon.

The Kern; Clifton roll of Freedmen of the Cherokee Nation examined and applicants name found thereon, page 138, #3432 Celia Chambers, Cooweescoowee District.

BY COM'R. NEEDLES: What was your name before you married Adair? A My name was Celia Parks.

Q Was Adair your first husband? A Yes sir, Parks, that is my owners name.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicants name found thereon, page 134, #2793, Celia Parks, Cooweescoowee District.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and names of applicant's children found thereon as follows:

Page 139, 3441 Aleck Adair, Cooweescoowee District.

Page 139, #3442, Goldy Adair, Cooweescoowee District,

Page 139, Elsie Adair, Cooweescoowee District, #3443.

BY MR SMITH:

Q Where are these three unmarried children, Aleck, Goldy and Elsie Adair, at this time? A Right at home with me.

Q Have they always lived with you?

A Yes sir, they have always lived with me.

Q Are these the only three of your children that are under 21 years of age? A Yes sir.

Q Are the others all over 21 years of age? A Yes sir.

BY L. B. BELL, Cherokee Representative:

Q Where did you return to when you came back in '66, did you say?

A Up on Big Creek.

Q Who was with you? A My husband was with me and I come with the Webber Attachment.

Q Berry Ward? A Berry Ward that's dead.

Q Dave Mayes? A No sir, Berry Ward come and George Adair, my husband.

Q Sam Webber Attachment was it? A Yes sir, and my husband what's dead come along.

Q Well was Berry Ward along? A They was just so many I just don't really know and they was all strangers to me.

Q Did Dave Mayes come along? A Yes sir, I think he did, I just really don't know.

Q Johnson Webber? A Yes sir, Johnson Webber, yes sir.

Q Did they all bring their families? A Johnson Webber neber had any family only a woman and two little girls.

Q You don't know whether he brought his family or not?

A No sir I don't, to tell the truth I don't.

Q Well did Dave Mayes bring his family?

A Dave Mayes; Yes sir, I think he did.

Q You must have been 20 years ols or over? A I was'nt nothing but a girl, but I was married I married at 14 year old and of course it has been so long back and I have told this story.

Q I will give you all the advantage of that; you start in when you were 20 years of age? A I can't read and write.

Q You were a grown woman and married when you came back? A Yes sir.

Q You can remember something of these families that come back with you? A I think Dave Mayes come back.

Q Now of all them families you can't recollect any one distinctly?

A Yes sir, I can remember some.

Q Tell me some that come with you? A Well there was Daniel Rowe for one.

Q Where did you stop, whereabouts on Big Creek did you stop?

A I stopped, well about ten miles from where I live now, down the Creek.

Q You moved up the creek from where you stopped? A Yes sir.

Q Well down there in that neighborhood anywheres around was any people living? A No sir.

Q Not a soul? A No sir.

Q Well, didn't you appear before this Clifton-Kerns Commission?

A Yes sir.

Q You didn't swear that there were some Delewares living down there did you by the name of Fall-leaf? A Yes sir, but I made a mistake about that.

Q Well what was the mistake? A I just made a mistake; I didn't swear it the way I went to tell it and I caught it that I was'nt telling a straight tale.

Q You are telling a straight tale now? A Yes sir.

Q Who was your mother? A I don't know.

Q Who was your father? A My father is dead, I never saw him.

Q Who did you belong to? A Jeff Parks; first place I belonged to Stover and I went from Stover to Jeff Parks.

Q How old were you when Jeff Parks bought you? A I don't know.

Q You were not large enough to remember? A No sir.

Q What time of the year did you come to Big Creek?

A In the fall of '66.

Q Who was the captain of the crowd that came with you?

A Well sir, I just don't know, just what is just what I don't know; you asked me for the truth and I am going to tell you the truth, I just don't know.

Exhibit Celia Chambers, et al.

-4-

Q Was Aaron Webber with you? A I don't know whether Aaron Webber, but this little one sat here.

Q You know now he was along with you.

A Yes, and the old man Webber what's dead.

Q What was his name? A Named Sam Webber.

Q What did you say about Aaron Webber coming?

A Little Aaron come and I don't know nary other one, there was one was a preacher.

BY MR SMITH:

Q Did you state who this little grandchild of yours, whose child it is? A It is Elsie May's, my baby girl.

BY COM'R. NEEDLES:

Q What was your first husband's name? A George Adair.

Q Is he living? A No sir, he is dead, he is the father of all off these children.

Q Your present husband is named Charlie Chambers? A Yes sir.

SAM WEBBERS, being sworn by Commissioner Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Sam Webber.

Q Where do you live? A I live two miles west of Nowata, Cooweescoowee District.

Q How long have you lived there? A I moved there from Big Creek about two years ago.

Q How long have you lived in the Cherokee Nation? A Well, I was born and raised here, I went out and came back after the war.

Q Are you a Freedman? A Yes sir.

Q Are you on the 1886 roll? A Yes sir.

Q To whom did you belong? A Akey Webber.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q When did you come back? A I came back in July 1866, and went up here on Big Creek along in August.

Q Was that the first time you came back to the Cherokee Nation before that? A No sir, I come down before that.

Q Did you know this applicant, Celia Chambers? A Yes sir, I known her ever since she come to Big Creek, a short time after I got acquainted with her.

Q Do you know of your own knowledge to whom she belonged? A No sir, I could not tell you that.

Q You say you have known her ever since she came here, when was that? A That was in the fall of '66.

Q Where did you first get acquainted with her? A In Kansas.

Q Do you know when she came back to the Cherokee Nation after the war? A She come back in the fall of '66.

Q How do you know that? A I was in the crowd.

Q Did she come back in the same crowd? A Yes sir.

Q Where did she go to? A She come to Big Creek.

Q In the Cherokee Nation? A Yes sir.

Q Well do you know where she has been living since?

A She lived there on Big Creek, ten miles above where she use to live.

Q Have you seen her from time to time since that time? A Yes sir.

Q Are you acquainted with her family? A Not enough to know them; I know them enough to know them when I see them, I can't call their

names, I know the boys when I see them.

Q Where did you first see them in Kansas?

A In Lind County, near Mound City.

Q About how long before you brought her back here? A I don't know exactly, two or three, two years I guess; I put it something like that, I don't know exactly but I seen her there, she was living with an old gentleman by the name of George Adair.

Q Do you know when he died? A Not exactly, he died here on Big Creek here though but I don't know exactly when he did die.

Q When did he come back? A He come with us when we come in the fall.

BY MR. BELL:

Q When did you come down first, Webber? A When I first come to the Nation?

Q Yes? A In the fall of '85, and went to Gibson.

Q How long did you stay there then? A To Gibson?

Q Yes? How long did you stay in the Territory?

A Oh, stayed in the country until March '86, wintered here, hunting.

Q Then what become of you, did you go back to Kansas?

A Went back to Kansas.

Q Whereabouts to? A Lind County near Mound City, six miles of Mound City.

Q Then when did you return here? A We come down in the latter part of July, and built on Big Creek.

Q You come back in July, '86? A Last week in July.

Q Did you come with that crowd of prospectors that come and built some houses and went back to Kansas? A Yes sir.

Q How long were you here building those houses?

A Was'nt here over three weeks as near as I can remember.

Q Then you returned to Kansas after that? A Yes sir.

Q When did you get back to Kansas? A Up here some time in the latter part of August.

Q And then when did you fix to move? A Just as soon as we could sell out our crops and come.

Q What time was that? A Along in the fall.

Q Along in the fall covers a hundred days nearly?

A Not exactly a hundred days, we was'nt longer than we could sell out.

Q Were you there in October or November?

A I won't be certain, but we come before cold weather.

Q You did'nt come later than November? A Not later than that I know, we was'nt gone long we was in a hurry to get back, we brought plows down here and was in a hurry to get back.

Q Did you get down as early as October? A I won't say, I ain't certain and won't say; we was back here before cold weather that fall. We went up there and russed around terrible to get back because we wanted to get here and get fixed up before cold weather.

Q Was there any settlers on Big Creek when you come?

A No sir, when we was hunting claims we run up against John Riley and they said we was here three days, and run up against John Coker and he said, we are just here.

Q Where was that? A Down here on Verdigris.

BY COM'R. NEEDLES:

Q How old are you? A About 58.

Q What is your post-office? A Nowata, now.

Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.

Q On the 1880 roll? A Yes sir.

BY MR. SMITH:

Q Who else was in this crowd that you speak of that this applicant

was in? A Last crowd, I could not name all the people that come.

Q I am talking about the crowd that this woman, Celia Chambers was in, was any of her people besides herself in the crowd?

A Her husband was along, and several others.

Q Do you know Abbie Ward, her sister? A She don't go by Ward now does she?

Q No, what is her name now, Abbie Mayhew?

A I am acquainted with her; she went by some other name then, Abbie Ball.

Q Do you know her? A Yes sir.

Q How long have you known her? A About since I knowed this other one, about the time I got acquainted with this other one.

Q When did you first see her in the Cherokee Nation after the war?

A I saw her in the fall of '66.

Q When? A In the fall I said of '66.

Q Well, where did you see her in the Cherokee Nation?

A On Big Creek.

Q How did she get there? A She come with these other folks, we all come together.

Q With what other folks, her sister? A Her sister.

BY MR. BELL:

Q Do you know anything of her birth or parentage? A No sir.

Q Do you know anything of this Celia Chamber's birth or parentage?

A No sir.

Q You don't know whether they were Cherokee Freedman or not?

A Only what they say.

Q Well I am asking you what you know. A I don't know.

BY COM'R NEEDLES:

Q She was a freed woman in '66, wasn't she? A Yes sir.

BY MR. SMITH:

Q Do you know where she lives now? A Up on Big Creek.

Q How long has she lived there? A Ever since '66.

JIM ALBERTY, being first duly sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Jim Alberty.

Q How old are you? A 70 years old.

Q Where do you live? A I live in Saline District, eight miles east of Chouteau.

Q How long have you lived in the Cherokee Nation?

A I am 70 years old, I have lived here that long.

Q Have you lived here all your life? A Yes sir.

Q Do you know this applicant, Celia Chambers? A Yes sir.

Q How long have you known her? A Known her from the time she was a girl up until now.

Q Do you know who her owner was? A I know who her first owner was; her first owner was Stover.

Q What Stover was that? A John Stover, lives this side of Mayesville.

Q Where did you first see her after the war was over?

A Right on the east ~~side~~ prong of Big Creek in 1866.

Q In the Cherokee Nation? A Yes sir.

Q Do you know her, Abbie Ball, or Mayhew?

A I have saw her, I have no acquaintance with her.

Q Do you know anything about when she came back to the Cherokee

Nation? A No, I could not tell that.

Q You don't know? A No sir.

BY MR. BELL:

Q Were you living on Big Creek Jim, at the time you saw this Celia Chambers? A Yes sir, that is Tobe Martin was on my place there.

Q About what time of 1866 was it?

A It was in the fall of '66 when I saw her.

Q Along in September or October? A I can't give you any date.

Q It was either in September, October, November, or December?

A It was along in there somewhere, I can't give you any date.

Q You say Tobe Martin was on your place? A Yes sir.

Q What Tobe Martin was that? A Tobe Martin that use to belong to Jim Vann, he is out here now.

Q When did you make that place? A I made it before, about the time them folks first begin to come in on Big Creek, Tusky Brown owns it now.

Q You made it sometime about three months before these folks come back? A I don't know, I had it a year or two before you come down to the Salt lake and bought sale there.

Q You made it in the year '65, then did you? A No, in '66.

Q What time, in the Spring? A No, in the Fall.

Q Was you living up there at the time you saw this woman?

A No sir, Daniel Hicks had bought that old Marcum place and I had Tobe up there.

Q You say you saw this woman up on Big Creek there in '66?

A I was building my house and they was not.

Q You said Tobe was living up there? A You said where I was when you saw them; I was up there and she come there and after that I put Tobe there and they come down before.

Q You put Tobe in the house after you saw this woman?

A Yes sir, that is the way it is.

Q That's better. A That is the way it is.

Q Who was the John Stover you say that was the first owner of this applicant? A He was a white man, married a Cherokee.

Q Where did he live when you knew him? A He lived right this side of where you use to live, you know this side of Mrs. Buffington, between here and there.

Q That was up by Beaty's prairie? A Yes sir.

Q Now whereabouts on Beaty's prairie did he live? A Oh now you have gone to where I can't go, I told you this side of Mayesville; I can't tell you a spot in any country; it was this side of Mayesville this side of Jack Bell's where you lived.

Q Now a house, lots and fields is a good deal bigger than a girl?

A Yes sir.

Q You recollect all about the girl and don't recollect the place?

A I cared about the girl and I didn't ware about the place.

Q How large was she when you first saw her? A She was a good bit of a girl.

Q About how old was she? A I don't know, I don't know how old I was myself and I can't give you any age.

Q Down about ten years? A I don't know.

Q About how big? A I don't know.

Q You don't know how high she was? A She was a girl about as high as that (indicating).

Q Did you ever see her more than once? A I have seen her lots of times.

Q How long did that time go on? A Every time I would go up there to ride mile beats, Jim Kell's; you know where that is better than I do.

Q What was her mother's name? A I don't know, I don't really

Celia Chambers, et al. - 8-

Q Now know whether I have saw her mother or not.

Q You were never up there after that race track was abolished and quit running? A No sir, of course I never seen her after that.

Q Do you know what become of her after you left there?

A No sir, I don't.

Q You don't know whether she was sold or otherwise?

A I don't know anything about that.

BY MR. SMITH:

What you have just been stating, was that before the war or after the war? A When she was a girl?

Q Yes? A That was before the war, I knew her then and knew her to be.

BY MR. BELL:

Q That racing quit there about '50, did'nt it?

A I don't know a thing about that; you want to fetch me to something I don't know anything about.

Q All you know you went there to ride races?

A Yes sir, I went there to ride races.

ABBIE MAYHEW, being sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Abbie Mayhew.

Q Do you know Celia Chambers? A Yes sir.

Q Are you related to her? A Yes sir.

Q What kin are you to her? A Half sister.

Q How old are you? A I just don't really know my age for certain.

Q Which is the older you or Celia? A I am the oldest, she dont know anything about her mother.

Q Are you married or single? A I am married.

Q Were you a slave? A Yes sir.

Q When did you belong to? A I first belonged to Mr. Hasting's grandmother.

Q What was her name? A Her name was Charlotte Stover.

Q Whom did you belong to after that? A They sold me to Mose Ward.

Q Whom did you belong to when the war broke out? A Mose Ward.

Q Who was he? A Cherokee.

Q Where did he live? A Up there about Mayesville, place called Beaty's prairie.

Q Lived in the Cherokee Nation, on Beaty's prairie? A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where did you go? A I went up to Fort Scott.

Q When did you come back to the Cherokee Nation after the war?

A I came back in the fall of '68.

Q Who did you come back with? A Sam Webber attachment of them.

Q Did you come back at the same time your sister came back?

A Yes sir.

Q Where do you live now? A I live on Big Creek.

Q In the Cherokee Nation? A Yes sir.

Q How long have you lived there? A I have been living there ever since.

Q Ever since you came back in '68? A Yes sir.

Q Well to whom did your sister Celia belong? A John Stover, same person I did, I and her belonged to the same people.

Q Do you know whether John Stover sold her before the war or not?

A Yes, sold her before the war when she was a little bit of a girl, sold her to Ann Parks.

Q Who was Ann Parks? A Johnson Thompson's sister.

Q Was she married? A Yes sir.

Q What was her husband's name? A John Parks.

COM'R NEEDLES: Celia Chambers applies for the enrollment of herself and three children, to-wit: Aleck Adair, Goldy Adair and Elsie M. Adair, and for her grandchild, Lela Whitmire, whom she avers is the child of her daughter, Elsie May Adair. Her name is not found upon the authenticated roll of 1880 or the census roll of 1896; she is duly identified upon the Kerns-Clifton roll as Celia Chambers, and upon the Wallace pay roll as Celia Parks, that having been her maiden name. She avers that she was married to one Adair, who is the father of these children for whom she applies, and the names of said children, Aleck, Goldy and Elsie M. Adair, are identified upon the Kerns-Clifton pay roll. The name of her grandchild, Lela, is not found upon any of the rolls having been born after the rolls were compiled. She is duly identified, but for the reason that her name is not found upon the authenticated roll of 1880, and for the further reason that theri citizenship is contested by the Cherokee Nation, Celia Chambers, her three children and her grandchild, as enumerated herein, will be listed for enrollment as Cherokee Freedmen on a doubtful card, awaiting further consideration of the Commission. It will be necessary for her to file with this Commission satisfactory proof of the birth of said Lela Whitmire, before the enrollment of said Lela Whitmire will be complete. She will be duly notified when the decision of the Commission is arrived at.

-----OOOOO O-----

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission as to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete ~~copy~~ transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this 3rd. day of June, 1901.

(signed) T. B. Needles
Commissioner.

File with C. F. D-446, Celia Chambers, et al.

Supl. C. F. D-447

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 29th, 1901.

In the matter of the application of Abbie Mayhew for enrollment as a Cherokee Freedman; the following supplemental testimony is offered on part of the Cherokee Nation.

Appearances:

Mellette & Smith, for Applicant;
Mr. Davenport, of counsel for Cherokee Nation.

A. B. WAYNE, being duly sworn and examined by Commissioner Breckinridge, testified as follows on part of the Cherokee Nation:

"R"

File with C. F. D-449, Jessie Brown et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in the
matter of the application of Celia Chambers, et al., for enrollment
as Cherokee ~~xxx~~ Freedmen, D-446.

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I.T., attorneys
for the applicants;
W.H.M. J.S. Davenport, of attorneys for Cherokee Nation.

W.H. NOBLE, being sworn and examined testified as follows:
BY MR. DAVENPORT:

Q What is your name? A W. H. Noble.
Q Where do you live? A On Big Creek.
Q How long have you lived on Big Creek? A About thirty odd years.
Q Where is Big Creek? A It is in Cooweescoowee District.
About the center of Cooweescoowee District.
Q Running to the Kansas line from the Cherokee Nation? A Yes sir.
Q You know Celia Chambers? A Yes sir.
Q How long have you known her? A I have known her as Mrs. Adair,
George Adair's wife, until the last four or five years, when she mar-
ried Chambers, right there in my neighborhood, right under me.
Q You say she was living with Adair? A Yes sir, George Adair.
Q When did she first come into your neighborhood there on Big
Creek? A I think as well as I can recollect in the spring of 1870.
Q Who did she come there with? A George Adair and George Adair's
wife.
Q You had been living in that country since when on Big Creek? A
Ever since about '64, '5 I guess, '68, probably. '66 when I
moved over on to Big Creek, about '68.
Q How far is she living now from where she first came in that
country and settled? A Right in the first place where she set-
tled; right on the same farm; where she settled in '70 or '71,
lived on the same place yet.

BY MR. MELLETTE:

Q Mr. Noble, when did you locate on Big Creek? A I think it was
in about '67, that I went there first.
Q What time in '67? A I think I went there first along in the
winter of '67 and then commenced improvements there in the spring
of '67.
Q Where did you go from when you went on Big Creek there? A From
Cabin Creek.
Q U close to Chatopa, Kansas? A Yes sir.
Q What Freedmen cases was it you testified in at Vinita? A I could
not say now.
Q Now Mr. Noble, you remember that you were brought in there at
Vinita before this Commission as a witness in the Freedmen cases,
and you testified that you were living up near Chatopa, Kansas, and
in '67 on Cabin Creek, didn't you? A I was on Cabin in '67 and I
was also on Big Creek in '67, all the same.
Q What part of '67 did you go over on Big Creek? A I couldn't say
at to that just what time, but sometime in the spring of the year,
I went over there.
Q Now didn't you testify in Eliza Gaines' case that you were living
up near Kansas, Chatopa, Kansas, in the fall of '67? A I could
not say as to that.
Q Now you remember the case very distinctly don't you? A I could
not say for that, I was there on Big Cabin and I was also on Big
Creek in '67 both; they are near about eight miles apart.
Q You don't remember what you testified in the Eliza Gaines case

there what year the war closed, did you? A I think not, just at that time, but I could afterwards.

Q What? A I didn't at that time, but I could afterwards.

Q Now you are willing to swear positively that you moved to Big Creek in '67 are you? A Yes sir.

Q What time did you permanently locate on Big Creek in '67? A We went there in the spring and I moved my stuff there during the summer of '67.

Q Then you were not on Cabin near Chetopa, Kansas, in the fall of '67? A Why principally, yes.

Q You didn't live there? A I lived with my uncle, yes, at that time I was a young man.

Q You didn't have any regular home at that time? A No sir, not then.

Q You don't know where Celia Chambers come from when you first saw her? A She was on Big Creek when I first saw her.

Q You don't know where she was before that though? A No sir.

Q She might have been in that country so far as you know? A Not up in that section.

Q Did you see everybody up in that country? A In that year I was all over that country.

Q You don't pretend to swear that you saw everybody in that country do you? A No sir.

BY MR. BELLETTE: I want the testimony of this witness in the Eliza Gaines case made part of the testimony in this case.

BY COMMISSIONER: The request of the attorney for the applicant will be complied with, and the testimony made part of the record.

This testimony will be filed and made part of the record in the following Cherokee Freedmen cases No. D 447, D 449 D 451 D 452 and D 560.

H.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes hereof.

H.D. Green

Subscribed and sworn to before me this February 28, 1902.

[Signature]

Commissioner.

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notes & letters
concerning the
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from 1776 to
1864. By
John A. M.
Smith. New
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1. The first step is to identify the problem. This involves understanding the situation and the needs of the people involved. It is important to listen to all sides and to be open to new ideas.

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N. D-448.

Department of the Interior,
Commission to the Five Civilized Tribes,
Washington, D.C., May 21, 1902.

In the matter of the application of John Brown et al for
enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO D-448.

APPEARANCES:

Levin S. Brown, representing Mellette & Smith, for appli-
cants.

W. T. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that the testimony taken
in Freedom Docket #48 by the Cherokee Nation be filed and made a
part of the record in this case.

COMMISSIONER: The request of the Nation will be complied with and
the testimony filed.

Walter S. Croninger, being first duly sworn, states that as
stenographer to the Commission to the Five Civilized Tribes he re-
ported in full the proceedings in the above case, and that the
 foregoing is a true and complete transcript of his stenographic
notes thereof.

Walter S. Croninger

Subscribed and sworn to before me this 21st day of July, 1902.

(Seal)

W. T. Hastings
Notary Public.

On 11th Dec 1902 the Court of Appeal in the case of the People v. ...

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Department of the Interior,
Commissioner of the Five Civilized Tribes,
Washington, D. C., May 31, 1902.

In the matter of the application of PERCY ALLEN for enrollment
as a Cherokee Freedman:

Applicant appears by Mellette & Smith, Cherokee Nation, by
W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Hosea Whitore, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case F D 448, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

Jessie Brown, D 449;

By W. W. Hastings:

Shows now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show that
the applicant was a slave of the Cherokee Nation at the beginning
of the war, nor that he returned within the time specified in the
treaty of 1866, or that he had been a continuous resident of the
Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be sus-
tained and the decree of the Court of Claims filed in the case
of Mariah Hayden will be made a part of the record by reference in all
the cases above named with the exception of those which came within
the provisions of the temporary legislation recently passed by
Judge Hall of the United States Court, of the Northern District,
Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named
cases including the Mariah Hayden case that counsel for the appli-
cants be allowed within thirty days to file any of the proof of any
or all of the record other than the decree already referred to.

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation certainly most strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Jacob Ross, et al., as Cherokee Freedmen, consolidating the applica-
tions of

Jacob Ross, et al.....	Cherokee Freedmen	D	839
George Ross, et al.....	"	D	840
Noses Ross, et al.....	"	D	841
Sarah Allen, et al.....	"	D	842
Rosanna Skaggs, et al....	"	D	843
Willie Ross, et al.....	"	D	838
Thomas Archer, et al.....	"	D	901
Eli Archer.....	"	D	1002
Celia Thompson, et al....	"	D	446
Josie Brown, et al.....	"	D	449
Benjamin Adair, et al....	"	D	451
Abbie Rowe, et al.....	"	D	452
Peter Adair.....	"	D	860
Frank Whitmire, et al....	"	D	966
Austin Whitmire, et al...	"	D	974
Nelson Whitmire.....	"	D	1090
Abbie Mayhew.....	"	D	447

-: D E C I S I O N :-

The record herein shows that applications were made to this Commission for the enrollment as Cherokee Freedmen by Maria Ross, for herself, her husband, Jacob Ross, her daughter, Ella Ross, and her minor grandchild, Thomas Anderson; the said Thomas Anderson, being differently classified, is not embraced in this decision; by George Ross for himself, his wife, Rose Ross, and their minor children, Fred and Stella Ross; by Noses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself and her husband, William Skaggs; the said William Skaggs claims only by intermarriage and his rights are not passed upon in this decision; by Willie Ross for himself, his wife, Rose, and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself and his wife, Georganna Archer; the said Georganna Archer claims only by intermarriage and her rights are not passed upon in this decision; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Alack, Goldy and Elsie May Adair and her minor grandchild, Lela Whitmire; by Josie Brown for herself, her husband, Robert Brown, and their minor children, Turner, Bessie, Gracie, Clandy and Celia Brown; the said Robert Brown claims only by intermarriage and his rights are not passed upon in this decision; by Benjamin Adair for himself, his wife, Linnie Adair, and their minor children, Isaac, Ollie, George, Cleveland and Al Adair; by Abbie Rowe for herself and her minor children, Arthur, Minnie and Abbie Rowe; by Peter Adair for himself; by Frank Whitmire for himself and his minor children, Jesse, Ma, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Minnie, Josephine and Arthur Whitmire; by Nelson Whitmire for himself; and by Abbie Mayhew for herself.

Copies of the testimony, taken at Muskogee, Indian Territory, on April 15, 1902, in the case of Nelson Murrell, et al., Cherokee Freedmen D-548; at Muskogee, Indian Territory, on May 16, 1902, in the case of Mary Harris et al., Cherokee Freedmen D-628; and at Vinita, Indian Territory, on October 3, 1901, in the case of David Martin et al., Cherokee Freedmen D-486, are filed herewith and made a part of the record in this case.

The evidence in this case shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the commencement of the rebellion and were taken out of said nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to said nation within the time specified in the decree of the Court of Claims, rendered on February 3, 1896, in the case of Moses Whitmire, trustee etc., vs. the Cherokee Nation et al., for the return of freedmen to the Cherokee Nation; that Frank Whitmire did return to the Cherokee Nation within the time specified in the decree of the Court of Claims of February 3, 1896, supra.

That Ella Ross, George Ross, Moses Ross, Willie Ross, Rosanna Skaggs, Sarah Allen, Fred Ross, Stella Ross, Emma Ross, Lee Etta Ross and Oscar Tucker are the children and grandchildren of Jacob and Maria Ross, born since 1866, and possess no right to enrollment except as their descendants. That Louisa Burney was born subsequent to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll. That Rose Ross, the wife of George Ross, was born since 1866 and claims the right to enrollment through her father, one Louis Gibson, whose application for enrollment as a Cherokee Freedman has been denied by this Commission. (see Cherokee Freedmen D-774). That Eli Archer and Rosa Ross, wife of Willie Ross, were born since 1866 and are the descendants of, and claim the right to enrollment through, Thomas Archer and his wife, Delsie Archer, who returned to the Cherokee Nation with her husband after the rebellion. That Rachel Ross, wife of Moses Ross, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant, Austin Whitmire, Nelson Whitmire, Cora Whitmire, Minnie Whitmire, Josephine Whitmire, Arthur Whitmire, Lela Whitmire, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair and Aid Adair are the children and grandchildren of Frank Whitmire, born since 1866, and claim the right to enrollment through the said Frank Whitmire. That Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudie Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe are the children and grandchildren of the said Celia Thompson, born since 1866, and claim the right to enrollment through the said Celia Thompson.

The evidence further shows that Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudie Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Abbie Mayhew are not identified upon the Cherokee tribal roll of 1880.

It further appears that Frank Whitmire has resided continuously in the Cherokee Nation since his return thereto, in 1866, with the exception of about one year when he had a temporary residence in the State of Missouri, and the the applicants Lela

Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire, and Louisa Burney have resided in the said nation since birth.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Emma Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson, (formerly Chambers), Alick Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celia Brown, Abbe Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Abbie Mayhew, as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stat., 495); and it is further the opinion of this Commission that Lela Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Frank Whitmire, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire and Louisa Burney should be enrolled as Cherokee Freedmen, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,

Dec 16 1904

Page 1 missing

- Q Give me your full name? A A. R. Wayne.
Q How old are you? A I am 58 years old.
Q What is your post-office? A Mound City, Linn County, Kansas.
Q Are you a citizen of the State of Kansas? A Yes sir.

MR. DAVENPORT:

- Q How long have you lived in and near Mound City, Kansas, Mr. Wayne?
A I have lived there continuously except a little over three years I was in the war, since 1855.
Q Did you know a colored family up there by the name of Ball?
A I know all of the Ball's.
Q What was the families names you got acquainted with?
A Arthur Ball and Spence Ball.
Q Did Arthur Ball have a wife? A Claimed her as wife and I understood he was married.
Q Did you know what her name was? A Yes sir.
Q What was her name? A They called her Abbie Berry, that is what she called her name.
Q Do you know whether or not she lived up there before she and Arthur Ball went to living together? A Yes sir.
Q Who did she live with before she went to living with Arthur Ball?
A Yes sir, I first knew her she was living in the family of Anderson Turk.
Q Then did she afterwards live together with Arthur Ball, as his wife?
A Yes sir.
Q When did you first get acquainted with Abbie Ball, or Berry, Mr. Wayne? A It was in '68.
Q Where was she living at that time? A About four miles and a quarter from Mound City.
Q When did you get acquainted with Arthur Ball? A Well, it was a number of years before that; I could not tell you.
Q You had known Ball before you did Abbie? A Yes sir.
Q Well no then, when was the last time you know of your own knowledge they were living in that neighborhood or country there, what year?
A Well, I know they were living there in 1879.
Q Were you at their house, or Ball with you, or anything that makes you remember that? A Yes sir.
Q Well, what was the circumstance that makes you remember?
A There was quite an excitement in that country in regard to lead and I got somewhat interested and I heard there was a colored man at Inole, about 35 miles from where I lived, and I got this Arthur Ball for to go with me as he was acquainted with this colored man, and we had a conversation.
Q That was in what year? A That was in 1879.
Q Do you know where Arthur was living with his wife, Abbie?
A They was living there in Mound City, or about a mile and a half, they were living out after that on the place, he had a little farm and lived there for a while but at that time I did not hear—
Q When she left that country was she and Arthur Ball living together as man and wife? A Yes sir.
Q You don't know where they went? A No sir.

MR. SMITH:

- Q Mr. Wayne, you don't know that this woman, Abbie, was this mans wife, or that she lived with this man, except what you heard?
A No sir, No more than any other family there is in my community.
Q Well, you say that you heard they lived together? A Yes sir, and I heard they was married.
Q Where did you get acquainted with this woman? A The first time

I ever saw her was in the family of Anderson Turk, about four miles and a quarter northwest of Mound City.

Q That was in 1868? A Yes sir.

Q You didn't know anything about her prior to that time?

A I did not; I may have met the lady before that but at that time is all I can call to mind.

Q Well, how long did she live at that place you saw her when she was living with Anderson Turk? A I don't think she lived there a great while until she went to Mound City and worked in the Hughes Hotel.

Q What was she doing? A Cooking.

Q Was hired out and worked? A Yes sir.

Q You never saw her with this man you are talking about?

A Except on one occasion.

Q Where was that? A It was when me and Arthur went to Iola.

Q How long had it been since you had seen her before that, do you know; seen her after she worked in that Hotel that time?

A No sir, I think they were married when she was working in the hotel.

Q Well, now, how long was that before you saw her with Anderson Turk? A I saw her around there for several years.

Q Well, you saw her at the hotel, how long was that from the time you first saw her? A I don't think it was more than six months.

Q Well, did you ever see her again until you saw her after you made this trip you were speaking about? A No, to my knowledge only once.

Q Only once? A That is all to my knowledge.

Q So that makes,---you don't remember the last time you saw her, the year it was? A No sir, I remember her after that, I remember the circumstance that happened.

COM'R. BRECKINRIDGE: This will be filed as supplemental testimony in Cherokee Freedman case, D-447, of Abbie Mayhew, and also in Cherokee Freedman case D. #446.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this November 7th, 1901.

(signed) T. R. Needles

Commissioner.

File with C. F. D. 446, Celia Chambers.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., 25, 1902.

Supplemental Testimony on behalf of Cherokee Nation, in the matter of the application of Celia Chambers, et al., for enrollment as Cherokee Freedmen, D-446.

Appearances:

Mr. Mellette of Mellette & Smith, Vinita, I. T., attorneys
for the applicants;

J. S. Davenport, of attorneys for Cherokee Nation.

Page 1 missing

W. H. NOBLE, being sworn and examined testified as follows:

BY MR. DAVENPORT:

- Q What is your name? A W. H. Noble.
Q Where do you live? A On Big Creek.
Q How long have you lived n Big Creek? A About thirty odd years.
Q Where is Big Creek? A It is in Cooweescoowee District. About the center of Cooweescoowee District.
Q Running to the Kansas line from the Cherokee Nation? A Yes sir.
Q You know Celia Chambers? A Yes sir.
Q How long have you known her? A I have known her as Mrs. Adair George Adair's wife, until the last four or five years when she married Chambers right there in my neighborhood, right under me.
Q You say she was living with Adair? A Yes sir, George Adair.
Q When did she first come into your neighborhood there on Big Creek? A I think as well as I can recollect, in the spring of 1870.
Q Who did she come there with? A George Adair, and George Adair's wife.
Q You had been living in that country since when on Big Creek? A Ever since about '64, '5 I guess, '66 probably. '66 when I moved over on to Big Creek, about '66.
Q How far is she living now from where she first came in that coun-
try and settled? A Right in the first place where she settled;
right on the same farm where she settled in '70 or '71, lived on the same place yet.

BY MR. BELLETTE:

- Q Mr. Noble, when did you locate on Big Creek?
A I think it was in about '67, that I went there first.
Q What time in '67? A I think I went there first along in the winter of '67 and then commenced improvements there in the spring of '67.
Q Where did you go from when you went on Big Creek there?
A From Cabin Creek.
Q Up close to Chetopa, Kansas? A Yes sir.
Q What Freedmen cases was it you testified in at Vinita?
A I could not say now.
Q Now, Mr. Noble, you remember that you were brought in there at Vinita, before this Commission as a witness in the Freedmen cases, and you testified that you were living up near Chetopa, Kansas, and in '67 on Cabin Creek, didn't you? A I was on Cabin in '67, and I was also on Big Creek in '67, all the same.
Q What part of '67 did you go over on Big Creek? A I couldn't say as to that just what time, but sometime in the spring of the year I went over there.
Q Now, didn't you testify in Eliza Gaine's case that you were living up near Kansas, Chetopa, Kansas, in the fall of '67?
A I could not say as to that.
Q Now you remember the case very distinctly don't you?
A I could not say for that, I was there on Big Cabin and I was also on Big Creek in '67, both; they are near about eight miles apart.
Q You don't remember when you testified in the 'Elisa Gaines' case there what year the war closed, did you?
A I think not just at that time, but I could afterwards.
Q What? A I didn't at that time, but I could afterwards.
Q Now you are willing to swear positively that you moved to Big-
Creek in '67, are you? A Yes sir.
Q What time did you permanently locate on Big Creek in '67?
A We went there in the spring and I moved my stuff there during the summer of '67.
Q Then you were not on Cabin near Chetopa, Kansas, in the fall of '67

A Why principally, yes.
Q You didn't live there? A I lived with my Uncle, yes, at that time I was a young man.
Q You didn't have any regular home at that time? A No sir, not then.
Q You don't know where Gelia Chambers come from when you first saw her? A She was on Big Creek when I first saw her.
Q You don't know where she was before that though? A No sir.
Q She might have been in that country so far as you know? A Not up in that section.
Q Did you see every body up in that country? A In that year I was all over that country.
Q You don't pretend to swear that you saw everybody in that country do you? A No sir.

BY MR. MELLETTE: I want the testimony of this witness in the Eliza Gaines case made part of the testimony in this case.

BY COMMISSION: The request of the attorney for the applicant will be complied with, and the testimony made part of the record. This testimony will be filed and made part of the record in the following Cherokee Freedmen cases No D-447, D-449, D-451, D-452 and D-560.

M. D. Green, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) M. D. Green

Subscribed and sworn to before me this February 28th, 1902.

(signed) T. B. Needles
Commissioner.

I. Mattie E. DeWitt, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I copied the foregoing testimony and proceedings in the above stated case, and the same is a true copy from the original.

Mattie E. DeWitt

Subscribed and sworn to before me this the 1st day of August, 1902.

Prince C. Jones
Notary Public.

IN RE
Application for Enrollment of
INFANT CHILD

-----Grace Brown-----
as a citizen of
Cherokee-----Nation.

Approved May 31 1901 190

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED MAY 31 1901

TAMS BIXBY
ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR, COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Gracie Brown, born on the 25 day of Jan, 1896,
(Here insert name of child.)
Name of Father: Robert Brown a citizen of the Cherokee Nation.
Name of Mother: Josie Brown a citizen of the Cherokee Nation.
Postoffice Welch I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, Josie Brown, on oath state that I am 31
years of age and a citizen, by Freedman citizen, of the Cherokee Nation;
that I am the lawful wife of Robert Brown, who is a citizen, by
marriage, of the Cherokee Nation; that Female child was
(Male or Female.)
born to me on 25 day of Jan, 1896; that said child has been named
Gracie Brown, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.) {

Subscribed and sworn to before me this 29 day of May, 1901.

My Commission Expires March 25, 1905
P. O. Hayden, I. T.
(SEAL)

Wm. Madden Jr.
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, Abbie Mayhugh, a Midwife, on oath state that I
attended on Mrs. Josie Brown, wife of Robert Brown
on the 25 day of Jan, 1896; that there was born to her on said date a Female
(Male or Female.)
child; that said child is now living and is said to have been named Gracie Brown

her
Abbie X Mayhugh
mark

WITNESSES TO MARK:

(Must be Two Witnesses.) {
Ben Adair
Jerry Pence

Subscribed and sworn to before me this 29 day of May, 1901.

(SEAL)

Wm. Madden Jr.
Notary Public.

Cherokee Freedman D 449

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IN RE

Application for Enrollment of
INFANT CHILD

Bessie Brown

as a citizen of

Cherokee

Nation.

Approved May 31 1901 190

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED MAY 31 1901

TAMS BIXBY

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

STATE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,

of Bessie Brown, born on the 26 day of April, 1894.

Name of Father: Robert Brown, a citizen of the Cherokee Nation.

Name of Mother: Josie Brown, a citizen of the Cherokee Nation.

Postoffice Welch I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern District.

I, Josie Brown, on oath state that I am 31 years of age and a citizen, by Freedman citizen, of the Cherokee Nation; that I am the lawful wife of Robert Brown, who is a citizen, by marriage, of the Cherokee Nation; that a Female child was born to me on 26 day of April, 1894; that said child has been named Bessie Brown, and is now living.

WITNESSES TO MARK:

Josie Brown

(Must be Two Witnesses.)

Subscribed and sworn to before me this 29 day of May, 1901.

My Commission Expires March 25, 1905 Wm. Madden Jr.

P. O. Hayden I. T.

Notary Public.

(SEAL)

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern District.

I, Celia Chambers, a Midwife, on oath state that I attended on Mrs. Josie Brown, wife of Robert Brown, on the 26 day of April, 1894; that there was born to her on said date a Female child; that said child is now living and is said to have been named Bessie Brown.

her
Celia X Chambers
mark

WITNESSES TO MARK:

(Must be Two Witnesses.)

Ben Adair
Perry Pence

Subscribed and sworn to before me this 29 day of May, 1901.

(SEAL)

Wm. Madden Jr.

Notary Public.

Cherokee Freedman D 449

so

IN RE

Application for Enrollment of
INFANT CHILD

Cela Brown

as a citizen of

Cherokee Nation.

Approved Cherokee 190

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED JUN 20 1901

TAMS BIXBY ACTING CHAIRMAN.

**DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.**

HERE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,

of Cela Brown, born on the 1st day of March, 1901.
Here insert name of child.

Name of Father: Robert Brown a citizen of the Cherokee Nation.

Name of Mother: Josie Brown a citizen of the Cherokee Nation.

Postoffice Welch I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Josie Brown, on oath state that I am 31 years of age and a citizen, by Freedman, of the Cherokee Nation; that I am the lawful wife of Robert Brown, who is a citizen, by adoption, of the Cherokee Nation; that a female child was born to me on 1st day of March, 1901; that said child has been named Cela Brown, and is now living.

Josie Brown

WITNESSES TO MARK:

(Must be Two Witnesses.)

Subscribed and sworn to before me this 13th day of May, 1901.

Commission Expires Dec 18 1904
(SEAL)

Omer Stroud
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, T. J. Bond M. D., a physician, on oath state that I attended on Mrs. Josie Brown, wife of Robert Brown on the 1st day of March, 1901; that there was born to her on said date a female child; that said child is now living and is said to have been named Cela Brown.

T. J. Bond M. D.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Subscribed and sworn to before me this 13th day of May, 1901.

(SEAL)

Omer Stroud

Commission Expires Dec 18 1904

Notary Public.

IN RE
Application for Enrollment of
INFANT CHILD

Claudy Brown

as a citizen of

Cherokee Nation.

Approved May 31 1901/90

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED MAY 31 1901

TAMS BIXBY ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR, COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Claudy Brown, born on the 29 day of Jan, 1899
(Here insert name of child.)
Name of Father: Robert Brown a citizen of the Cherokee Nation.
Name of Mother: Josie Brown a citizen of the Cherokee Nation.
Postoffice: Welch I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, Josie Brown, on oath state that I am 31
years of age and a citizen, by Freedman Citizen, of the Cherokee Nation;
that I am the lawful wife of Robert Brown, who is a citizen, by
marriage, of the Cherokee Nation; that a Male child was
(Male or Female.)
born to me on 29 day of Jan, 1899; that said child has been named
Claudy Brown, and is now living.

WITNESSES TO MARK:

(Must be Two
Witnesses.)

Subscribed and sworn to before me this 29 day of May, 1900.

My Commission Expires March 25, Wm. Madden Jr
1905 P. O. Hayden, I. T. Notary Public.
(SEAL)

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
Northern DISTRICT. }

I, Abbie Mayhugh, a Midwife, on oath state that I
attended on Mrs. Josie Brown, wife of Robert Brown
on the 29 day of JAN, 1899; that there was born to her on said date a Male
(Male or Female.)
child; that said child is now living and is said to have been named Claudy Brown
her
Abbie X Mayhugh
mark

WITNESSES TO MARK:

(Must be Two
Witnesses.)

Ben Adair
Jerry Pence

Subscribed and sworn to before me this 29 day of May, 1900.

(SEAL)

Wm. Madden Jr.
Notary Public.

9
No. D. 449

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901

Given under my hand this
day of..... A. D. 1901.

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

..... day of SEP 8 1901.

William Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A.D. 1901

Subscribed and sworn to before me
this..... day of..... A.D. 1901.

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
SEP 20 1901

W. H. Smith
Acting Chairman

NOTICE

IN THE MATTER OF the application of Jesse Brown
for enrollment as a Cherokee citizen:

Case No. D 449

To Jesse Brown

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Indian Territory Indian Territory, on Oct 26/1901 at 2 o'clock P.M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 1 1901

L B Bell
M W. Hastings

Attorneys for the Cherokee Nation.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Josie Brown,

Welch, I.T.

Cherokee F-D-449

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

7B.

7119

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 31 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 31st 1901

Post Office Stetch, Ga

District X000

1. Name [Redacted] Age [Redacted]

Owner's name [Redacted] Citizenship [Redacted]

Year [Redacted] Page [Redacted] No. [Redacted] District [Redacted]

Parents:

Father [Redacted] Citizenship [Redacted]

Mother [Redacted] Citizenship [Redacted]

2. Name of wife Jessie Brown Age 31

Owner's name [Redacted] Citizenship [Redacted]

Year TC Page 138 No. 3436 District Coo

Parents:

Father George Adam Citizenship Cherokee

Mother Leola Chambers Citizenship [Redacted]

Names of Children:

3. Jessie Brown Year TC Page 138 No. 3432 Dist. Coo

4. Bessie Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

5. Grace Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

6. Sammy Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

7. Leola Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

8. [Redacted] Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

9. [Redacted] Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

10. [Redacted] Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

11. [Redacted] Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

12. [Redacted] Year [Redacted] Page [Redacted] No. [Redacted] Dist. [Redacted]

Application made by [Redacted] Stenographer [Redacted]

OK Wallace race page 134 = 2795
as for adair Coo dist

Birth affidavits required
ref to 19 446

Represented by Melville & Smith, Vinita, Okla

8

0449

DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 17 1901

[Handwritten signature]

COMMISSIONERS
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Josie Brown et al for enroll-
ment as Freedmen of the Cherokee Nation, one copy of the original
testimony of May 31st, 1901.

Mellott Smith

A ttorney for Applicants.

Cherokee F. #D449.

COPY.

Cherokee Freedmen
D-539, et al.

Muskogee, Indian Territory, December 15, 1906

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 15, 1906, granting the applications for the enrollment of Linnie, Isaac, Ollie, George, Cleveland and Aid Adair, Lola, Frank, Jesse, Ada, George, Bessie, Austin, Gerv, Minnie, Josephine, Arthur and Nelson Whitmore, Ella Bryant (formerly Whitmore), Louisa Barney and Rachel Ross, as Cherokee Freedmen, and rejecting the applications for the enrollment of Jacob, Kariah, Ella, George, Ross, Fred, Stella, Moses, Willie, Ross, Anna, and Lou Ella Ross, Sarah Allen, Oscar Tucker, Rebecca Shaggs, Eli and Thomas Archer, Collie Dempsey (formerly Chambers), Alcock, Goldy, Elsie May, Benjamin and Peter Adair, Jessie, Turner, Bessie, Grace, Gladys and Ella Brown, Abbie, Arthur, Minnie and Abbie Ross and Abbie Mayhew, as Cherokee Freedmen.

You are hereby advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the principal applicants. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Encl. B-40

SIGNED: *Tarns Bixby*
Chairman

COPY.

Cherokee Freedman
D-449,

Waskagee, Indian Territory, January 7, 1905.

Jessie Brown,

Wahah, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, the application for the enrollment of yourself and your minor children, Turner, Bessie, Gracie, Claudy, and Celis Brown, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectively,

Encl. L-55.

Register.

SIGNED: *Tame Bixby.*
Chairman.

COPY

Cherokee Freedmen
D-529 et al.

Muskogee, Indian Territory, January 7, 1905.

Esqr Smith,

Attorney for Mariah Ross et al.,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting, among others, the applications for the enrollment of Mariah, Ella, George, Ross, Fred, Stella, and Monroe Ross; Sarah Allen, Oscar Tucker, Rebecca Shaggs, Thomas Archer, Gelia Thompson, Alcock, Giddy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Dennis, Gracie, Cloudy, and Gelia Brown; Abbie, Arthur, Minnie, and Abbie Ross; and Abbie Mayhew, and granting, among others, the applications for the enrollment of Rachel Ross, Louisa Murry, Lela, Frank, Jesse, Ada, George, and Dennis Whitacre; Lizzie, Irene, Ollie, George, Cleveland, and Aid Adair; and Ella Bryant, as Cherokee Freedmen. You have heretofore been furnished with a copy of the report of proceedings.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the

COPY

Submitted for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. 1-45.

Sincerely,

Tame Bixby.
Chairman.

COPY.

Cherokee Freedmen
D-630 et al.

Waukegee, Indian Territory, January 7, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted record of proceedings had in the consolidated case of Jacob Ross et al., including the Commission's decision dated December 14, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting the applications for the enrollment of Mariah, Ella, George, Ross, Fred, Stella, Moses, Willie, Rosa, Emma, and Leo Etta Ross; Sarah Allen, Oscar Tucker, Rebecca Skaggs, Thomas and Eli Archer; Gelia Thompson, Alcock, Goldy, Elsie May, Benjamin, and Peter Adair; Jessie, Warner, Beaulie, Gracie; Gandy, and Gelia Brown; Abbie, Arthur, Minnie, and Abbie Ross; and Abbie Mayhew, and granting the applications for the enrollment of Rachel Ross, Louisa Warner, Lela, Frank, Jennie, Ada, George, Beaulie, Austin, Sara, Minnie, Josephine, Arthur, and Nelson Whitlire; Ella Bryant, and Lizzie, Ignace, Ollie, George, Cleveland, and Aid Adair, as Cherokee Freedmen.

Respectfully,

SIGNED: *Larns Bixby,*
Chairman.

Encl. L-67.

Through the
Commissioner of Indian Affairs.

(COPY)

Land:
2223-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON,

April 1, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated January 7, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Maria Ross for herself, her husband, Jacob Ross and her daughter, Ella Ross; by George Ross for himself, his wife, Rose Ross and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself; by Willie Ross for himself, his wife, Rosa and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Aleck, Goldy, and Elsie May Adair, and her minor grandchild, Lola Whitmire; by Josie Brown for herself and her minor children, Gracie, Claudy and Celia Brown; by Benjamin Adair for himself, his wife, Lizzie Adair, and their minor children, Isaac, Ollie, George, Cleveland and

Aid Adair; by Abbie Rowe for herself and her minor children, Arthur, Minnie and Abbie Rowe; by Peter Adair for himself; by Frank Whitmire for himself and his minor children, Jesse, Ada, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Mineola, Josephine and Arthur Whitmire; by Nelson Whitmire for himself, and by Abbie Mayhew for herself.

December 16, 1904, the Commission decided favorably to Rachel Ross, Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair; Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Mineola, Josephine, Arthur and Nelson Whitmire; Ella Whitmire Bryant and Louisa Burney and Adversely to all the other applicants.

The record shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the beginning of the war of the rebellion and were taken out of the Cherokee nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to the Nation on or before February 11, 1867, but that Frank Whitmire did return prior to said date.

It is also shown that Ella, George, Moses, Willie, Fred, Stella, Emma and Lee Etta Ross and Rosanna Skaggs, Sarah Allen and Oscar Tucker are the children and grand children of Jacob and Maria Ross born since 1866, and possess no rights to enrollment except as their descendants; that Louisa Burney was born subsequent

to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll; that Rose Ross, the wife of George Ross was born since 1866 and claims right to enrollment through her father, one Louis Bibson, whose application has been denied and the adverse decision affirmed by the Department November 19, 1903 (I.T.D.6188,8060-1903); that Eli Archer and Rosa Ross, wife of Willie Ross were born since 1866, and are the descendants of, and claim right to enrollment through Thomas Archer and his wife Delsie Archer, who returned to the Cherokee Nation with her husband subsequent to February 11, 1867; that Rachel Ross wife of Moses Ross, Jesse, Ada, George, Bessie, Austin, Nelson, Cora, Mineola, Josephine, Arthur and Lela Whitmire, Ella Bryant, Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair are the children and grand-children of Frank Whitmire, born since 1866, and claim right to enrollment through him; that Aleck, Goldy, Elsie May, Benjamin and Peter Adair, Josie, Turner, Bessie, Gracie, Claudy and Celia Brown, and Abbie, Arthur, Minnie and Abbie Rowe are the children and grand children of Celia Thompson, born since 1866, and claim right to enrollment through her.

It does not appear that any of the applicants is identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision is recommended.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

M.M.M. (W)

Cherokee Freedmen

D-449.

Muskogee, Indian Territory, November 13, 1906.

Josie Brown,

Welch, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated December 16, 1904, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of your case, filed by your attorneys September 7, 1905, denied.

Respectfully,

LS

Commissioner.

Cherokee Freedmen

D-539, et al.

Muskogee, Indian Territory, November 13, 1906.

Blue & Bulger,

Attorneys for Jacob Ross, et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed by you September 7, 1905, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. S-4
LS

Commissioner.

Cherokee Freedmen

D-539, et al.

Muskegee, Indian Territory, November 13, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskegee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed September 7, 1906, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. 2-1
LS

Commissioner.

(COPY)

CRW

DEPARTMENT OF THE INTERIOR, LLE
WASHINGTON.

D.C. 48532.

I.T.D. 3396, 8393, 8445,
8479, 8497, 8583,
8585, 8589, 8649,
8787, 8791, 8793;
8795-19 05.

November 2, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 7, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for the enrollment of Jacob Ross et al. as Cherokee freedmen, including its decision of December 16, 1904, rejecting the applications of Jacob, Mariah, Ella, George, Rose, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Etta Ross; Sarah Allen; Oscar Tucker; Rosanna Skaggs; Thomas and Eli Archer; Gelia Thompson; Aleck, Goldy, Elsie May, Benjamin, and Peter Adair; Jesse, Turner, Bessie, Gracie, Claudy, and Gelia Brown; Abbie, Arthur, Minnie, and Abbie Rowe, and Abbie Mayhew; and granting the applications of Rachel Ross; Louisa Burney; Lela, Frank, Jesse Ada, George, Bessie, Austin, Cera, Minnieola, Josephine, Arthur, and Nelson Whitmire; Ella Bryant, and Lizzie, Isaac, Ollie, George, Cleveland, and Aid Adair.

Reporting April 1, 1905 (Land 2223), the Indian Office

recommended that the Commission's decision be approved. A copy of its letter is inclosed.

September 7, 1905, motions for review were filed in the matter of the applications of Moses Ross, Abbie Rowe et al., Celia Thompson et al., Rose Snaggs, Ella Ross et al., George Ross et al., Jacob Ross et al., Abbie Mayhew, Benjamin Adair, Sarah Allen et al., Eli Archer et al., and Thomas Archer.

There appears to be no proper reason for granting said motions and they are hereby denied.

The Department concurs in the recommendation made, and the decision of the Commission is hereby affirmed.

The Indian Office will notify local attorneys of departmental action.

The papers in the case, including said motions for review, have been sent to the Indian Office for its files.

Respectfully,

H. A. Hitchcock

Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 14 to Ind. Of.

Muskegee, Indian Territory, April 4, 1907

United States Indian Agent,

Union Agency,

Muskegee, Indian Territory.

Dear Sir:

Receipt is acknowledged of your letter of March 30, Intruder, Cherokee 991- asking to be advised the status of the citizenship in the Cherokee Nation of Josie Brown.

In reply you are advised that the application for the enrollment of Josie Brown as a Cherokee freedman was denied by the Secretary of the Interior November 2, 1906. No motion for review or rehearing of this case is pending.

Respectfully,

L M B

Acting Commissioner

Cher. Fr. R. 894

Cher. Fr. R. 894

Trans. from Cher. Fr. D 451

COPY.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
CHEROKEE NATION, TULSA, OKLA., MAY 31st., 1901.

In the matter of the application of Benjamin Adair for the enrollment of himself, wife and five children as Cherokee Freedman; said Adair being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Benjamin Adair
Q How old are you? A 33
Q What is your postoffice address? A Hudson.
Q What District do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A Myself, five children and my wife.
Q What is your wife's name? A Lizzie Whitmire.
Q Is she a citizen? A Yes sir.
Q How old is she? A 28.
Q Is her name on the roll of 1880? A No sir, I don't think it is on the roll of '80.
Q What is her father's name? A Frank Whitmire.
Q Is he living? A Yes sir.
Q What is her mother's name? A Martha Whitmire.
Q Is she living? A Yes sir.
Q What was your father's name? A George Adair.
Q Is he living? A No sir.
Q Please give the names of your children? A Isaac.
Q How old is Isaac? A Ten years old.
Q What is the next one? A Ollie.
Q How old is Ollie? A Eight years old.
Q What is the name of the next one? A George.
Q How old is George? A Six years old.
Q The next child? A Cleveland
Q How old is Cleveland? A Four years old.
Q The next one? A Aid.
Q How old is Aid? A Two years old.
Q Are these children all living at this time? A Yes sir, all living.
Q Is your wife present? A Yes sir.

By Mr. Smith of firm of Melette & Smith, Attorneys for Applicants:

- Q Who was your mother? A Celia Chambers.
Q Is she the woman who has just applied for admission?
A Yes sir.
Q What is your postoffice? A Hudson.
Q Where do you live? A Cooweescoowee.
Q How long have you lived there? A Born and raised there.
Q You were married to Lizzie Whitmire were you? A Yes sir.
Q Does she claim to be a Freedman in her own right?
A Yes sir.
Q When were you married to Lizzie Whitmire? A I was married to her about 12 years ago. I believe.
Q Have you been living together ever since? A Yes sir.
Q Was these children whose names you have given born since you and she were married and been living together? A Yessir.
Q You say Celia Chambers was your mother? A Yes sir.

The 1880 Authenticated roll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon
The 1896 Census roll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon
The Kerns-Clifton roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:

Page 138, #3434, Ben Adair, Cooweescoowee District
Page 138, #3435, Isaac Adair, Cooweescoowee District
Page 139, #3446, Ollie Adair, Cooweescoowee District.
Page 155, #3755, Lizzie Whitmire, Cooweescoowee District.

Eliza Whitmire being first duly sworn by Commissioner T. B. Needles, testified as follows: EXAMINATION BY MR. SMITH.

- Q State your name? A Lizzie Adair.
Q Are you the wife of Ben Adair? A Yes sir.
Q How long have you and Ben Adair been married? About?
A About 12 years.
Q Are Isaac, Ollie, George, Cleveland and Aid your children?
A Yes sir.
Q Have you and Ben lived together all the time since you were married? A Yes sir.
Q Where do you live? A I live on Big Creek.
Q Who was your mother? A Martha Whitmire.
Q Your father? A Frank Whitmire.
Q They are both living? A Yes sir.
Q About how old are you? A I am 28.
Q Is your father here? A No sir.
Q Is your mother? A No sir; my father is out there.
Q What is your father's name you say? A Frank Whitmire.

Benjamin Adair, the Applicant, recalled.

By Com'r Needles:

- Q Ben have you always lived in the Cherokee Nation? A Yes sir.
Q Lived here all your life? A Yes sir.

The Wallace Roll of Freedmen of the Cherokee Nation examined and the names of applicant and his wife found thereon as follows:

Page 134, #2894, Ben Adair, Cooweescoowee District
Page 149, #3112, Eliza Whitmire, Cooweescoowee District

Com'r Needles:- Benjamin Whitmire applies for the enrollment of himself, his wife, Eliza, and five children, to-wit: Isaac, Ollie, George, Cleveland and Aid Adair. Upon examination of the authenticated roll of 1880 his name is not found, but the applicant is duly identified upon the Kern-Clifton and the Wallace Pay rolls according to the page and number of the rolls as indicated in the testimony. His two oldest children, Isaac and Ollie, are identified upon the Kern-Clifton roll. His wife, Eliza, nee Whitmire, is identified upon the Kern-Clifton and Wallace rolls as Whitmire, the child of Frank and Martha Whitmire; she is now married to the applicant, Benjamin Adair. They are all duly identified and make satisfactory proof as to residence. By reason of the fact that their names are not found upon the authenticated roll of 1880 and of the protest of the Cherokee Nation, the said Benjamin Adair, his wife, Eliza Adair, and his five children, as enumerated herein, will be listed for enrollment as Cherokee Freedmen on a doubtful card, awaiting further consideration of the Commission. It will be necessary for him to file with this Commission satisfactory proof of the birth of his three younger children, their names not appearing upon any of the rolls of the Cherokee Nation. The applicant applies for the enrollment of his wife either as an intermarried citizen or a lawful citizen in her own right. Reference is made

Benjamin Adair et al -- 3

to the testimony taken in the case of Celia Chambers, the mother of applicant, who was listed for enrollment upon D. card #446; said testimony will be made a part of the record in the case now at bar.

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rossen.

Subscribed and sworn to before me this 4th day of June, 1901.

(Signed) T. B. Needles.
Commissioner.

This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole tribes of Indians and the disposition of the lands of said tribes, and that the above and foregoing is a true and correct transcript of testimony taken at Chelsea, Oklahoma, on May 31, 1901, in the matter of the application of Benjamin Adair for the enrollment of himself and wife and five children as Cherokee freedmen.

Muskogee, Oklahoma,
January 2, 1912.

L

File with F. D. 451, Benjamin Adair.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I. T. MAY 31st, 1901.

In the matter of the application of Celia Chambers for the enrollment of herself, husband, three children and one grandchild as Cherokee Freedmen; said Chambers being sworn and examined by Commissioner T. B. Needles, testified as follows:

Appearances:

Mellette & Smith, Attorneys for Applicants.
L. B. Bell, Cherokee Representative.

- Q What is your name? A Celia Chambers.
Q How old are you? A I count myself near 58 years old.
Q What is your post-office? A Hudson.
Q What district do you live in? A Coowesscoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A Seven children, three of them.
Q Three of them is of age? A Yes sir.
Q Four then you have got? A Yes sir.
Q Are you married? A Yes sir, Charlie Chambers is my husband.
Q Is he a citizen? A Yes sir, he is on the 1880 roll.
Q Has he been enrolled? A No sir, he ain't been enrolled yet.
Q Don't you want to enroll him and yourself and family all together?
A Yes, I guess so.
Q Are you on the 1880 roll? A I am on the Wallace and Kern and Clifton.
Q Not on the roll of 1880? A No sir.
Q What are the names of your children? A The single boy is named Aleck Adair, 20.
Q What is the name of the next child? A Goldy Adair, 18.
Q What is the name of the next one? A Elsie May Adair, 16.
Q How old is Elsie May? A She is 16.
Q Well now, the next child? A That is all there is three; there is four of age; Elsie May has a child, I have a grandchild.
Q What is the name of the child? A Lela Whitmire.
Q How old is Lela Whitmire? A Nine months.
Q What is the name of the father of Lela Whitmire?
A William Whitmire
Q What is the mother of Lela? A Elsie May.
Q Is she married to Whitmire? A No sir, he married another girl not long ago.
Q They were never married? A No sir.
Q Why is'nt your name on the roll of 1880? A The Indians didn't put me there.

BY MR. SMITH, Attorney for Applicants:

- Q How old did you say you were? A I count myself near about 58, I don't really know.
Q How was your mother? A My mother is dead, I never did see her.
Q Were you a slave yourself? A Yes sir.
Q Who was your owner? A Jeff Parks.
Q Was he a Cherokee Indian? A Yes sir.
Q Where did he live? A Lived on Grand river, east of Grand river in, I have forgot what district.
Q Was it in the Cherokee Nation? A Yes sir.
Q Where were you when the Civil War commenced? A I was right

there at home.

Q Did you go out of the Nation during the war? A Yes sir, I went out with the soldiers.

Q Where did you go to during the war? A I was cook for 'em; stayed with 'em and cooked for the federals.

Q Well, where did you go to, if you know? A After I went home?

Q No, when you were out of the Nation where were you?

A Why, I went up to Fort Scott.

Q What time did you come back to the Cherokee Nation after the war?

A I come back in the fall of '66.

Q Did you have any children at that time; at the time you came back here in 1866? A I was married out in Kansas and stayed there one year and come back and didn't have any children.

Q Where were your children born? A On Big Creek.

Q In the Cherokee Nation? A Yes sir.

Q Who were they, give their names? A Ben Adair, Josie Adair, Abbie Adair, Peter, Goldy and Elsie May Adair, there was seven of them.

Q Were they all born in the Cherokee Nation? A Yes sir, their father is dead.

Q Where do you live now? A Live up on Big Creek.

Q How long have you lived there? A I have lived there ever since I have been here.

Q Have you lived in the Cherokee Nation ever since you came back here in 1866? A Yes sir, never went to Kansas to do a days work in my life.

Q Who is your husband at this time? A Charley Chambers.

Q Where is your husband, Adair? A He is dead.

Q When did he die? A He has been dead about 19 years I guess.

Q Are all of your daughters married? A Yes sir, all married ones sitting back there.

Q What are their names? A Josie Brown.

Q What is the other's ones names? A Abbie Rowe and the boy is named Ben Adair.

Q Are you on the Kerns-Clifton roll? A Yes sir, I am on there.

The authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's names not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and applicant's names found thereon, page 138, #3432, Celia Chambers, Cooweescoowee District.

BY COM'R NEEDLES: What was your name before you married Adair?

A My name was Celia Parks.

Q Was Adair your first husband? A Yes sir, Parks, that is my owners name.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicants name found thereon, page 134 #2793, Celia Parks, Cooweescoowee District.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and names of applicants children found thereon as follows:

Page 139, #3441, Aleck Adair, Cooweescoowee District.

Page 139, Goldy Adair, Cooweescoowee District, (#3442)

Page 139, #3443, Elsie Adair, Cooweescoowee District.

BY MR. SMITH: Where are these three unmarried children, Aleck, Goldy and Elsie Adair, at this time? A Right at home with me.

- Q Have they always lived with you?
A Yes sir, they have always lived with me.
Q Are these the only three of your children under 21 years of age?
A Yes sir.
Q Are the others all over 21 years of age? A Yes sir.

BY L. B. BELL, Cherokee Representative:

- Q Where did you return to when you came back in '66, did you say?
A Up on Big Creek.
Q Who was with you? A My husband was with me and I come with the Webber Attachment.
Q Berry Ward? A Berry Ward that's dead.
Q Dave Mayes? A No sir, Berry Ward come and George Adair my husband.
Q Sam Webber Attachment was it? A Yes sir, and my husband what's dead come along.
Q Well was Berry Ward along? A They was jst so many I just don't really know and they was all strangers to me.
Q Did Dave Mayes come along? A Yes sir, I think he did, I just really don't know.
Q Johnson Webber? A Yes sir, Johnson Webber, Yes sir.
Q Did they all brign their families? A Johnson Webber neber had any family, only a woman and two little girls.
Q You don't know whether he brought his family or not?
A No sir, I don't, to tell the truth I don't.
Q Well did Dave Mayes bring his family?
A Dave Mayes; yes sir, I think he did.
Q You must have been 20 years old or over? A I was'nt nothing but a girl but I was married, I married at 14 years old and of course it has been so long back and I have told this story
Q I will give you all the advantage of that; you start in when you were 20 years of age? A I can't read and write.
Q You were a grown woman and married when you come back? A Yes sir.
Q You can remember something of these families that come back with you? A I think Dave Mayes come back.
Q Now, of all them families you can't recollect any one distinctly?
A Yes sir, I can remember some.
Q Tell me some that come with you? A Well there was Daniel Rowe for one.
Q Where did you stop, whereabouts on Big Creek did you stop? A I stopped, well about ten miles from where I live now down the creek.
Q You moved up the creek from where you stopped? A Yes sir.
Q Well, down there in that neighborhood anywheres around, was any people living? A No sir.
Q Not a soul? A No sir.
Q Well didn't you appear before this Clifton-Kerns Commission?
A Yes sir.
Q You didn't swear that there were some Delewares living down there did you, by the name of Fall leaf? A Yes sir, but I made a mistake about that.
Q Well, what was the mistake? A I just made a mistake; I didn't swear it the way I went to tell it and I caught it that I was'nt telling a straight tale.
Q You are telling a straight tale now? A Yes sir.
Q Who was your mother? A I don't know.
Q Who was your father? A My father is dead, I never saw him.
Q Who did you belong to? A Jeff Parks; first place I belonged to Stover and went from Stover to Jeff Parks.
Q How old were you when Jeff Parks bought you? A I don't know.
Q You were not large enough to remember? A No sir.
Q What time of the year did you come to Big Creek? A In the fall of '66.
Q Who was the captain of the crowd that come with you? A Well sir,

I just don't know, just what is just what I don't know;

you asked me for the truth and I am going to tell you the truth,

I just don't know.

Q Was Aaron Webber with you? A I don't know whether Aaron Webber, but this little one out here.

Q You know now he was along with you? A Yes, and the old man Webber what's dead.

Q What was his name? A Named Sam Webber.

Q What did you say about Aaron Webber coming? A Little Aaron come and I don't know nary other one, there was one was a preacher.

BY MR. SMITH:

Q Did you state who this little grandchild of yours, whose child it is? A It is Elsie May's, my baby girl.

BY COM'R NEEDLES:

Q What was your first husband's name? A George Adair.

Q Is he living? A No sir, he is dead, he is the father of all these children.

Q Your present husband is named Charlie Chambers? A Yes sir.

SAM WEBBER, being sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Sam Webber.

Q Where do you live? A I live two mile west of Nowata, Cooweescoowee District.

Q How long have you lived there? A I moved there from Big Creek about two years ago.

Q How long have you lived in the Cherokee Nation? A Well I was born and raised here, I went out and came back after the war.

Q Are you a Freedman? A Yes sir.

Q Are you on the 1880 roll? A Yes sir.

Q To whom did you belong? A Akey Webber.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q When did you come back? A I come back in July 1866, and went up here on Big Creek along in August.

Q Was that the first time you came back to the Cherokee Nation before that? A No sir, I come down before that.

Q Did you know this applicant, Gelia Chambers? A Yes sir, I known her ever since she come to Big Creek, a short time after I got acquainted with her.

Q Do you know of your own knowledge to whom she belonged?

A No sir, I could not tell you that.

Q You say you have known her ever since she came here, when was that?

A That was in the fall of '66.

Q Where did you first get acquainted with her? A In Kansas.

Q Do you know when she came back to the Cherokee Nation after the war? A She come back in the fall of '66.

Q How do you know that? A I was in the crowd.

Q Did she come back in the same crowd? A Yes sir.

Q Where did she go to? A She come to Big Creek.

Q In the Cherokee Nation? A Yes sir.

Q Well, do you know where she has been living since? A She lived there on Big Creek, ten miles above where she use to live.

Q Have you seen her from time to time since that time? A Yes sir.

Q Are you acquainted with her family? A Not enough to know them; I know them enough to know them when I see them, I can't call their names, I know the boys when I see them.

Q Where did you first see them in Kansas? A In Linn County, near Mound City.

Q About how long before you brought her back here? A I don't know exactly, two or three, two years I guess; I put it something like that, I don't know exactly but I seen her there; she was living with an old gentleman by the name of George Adair.

Q Do you know when he died? A Not exactly, he died here on Big Creek though, but I don't know exactly when he did die.

Q When did he come back? A He come with us when we come in the fall.

■

BY MR. BELL:

Q When did you come down first Webber? A When I first come to the Nation.

Q Yes. A In the fall of '65, and went to Gibson.

Q How long did you stay there then? A To Gibson?

Q Yes, how long did you stay in the Territory? A Oh, stayed in the country until March, '66, wintered here, hunting.

Q Then what become of you, did you go back to Kansas?

A Went back to Kansas.

Q Whereabouts to? A Linn County, near Mound City, six miles of Mound City.

Q Then when did you return here? A We come down in the latter part of July and built on Big Creek.

Q You come back in July, '66? A Last week in July.

Q Did you come with that crowd of prospectors that come and built some houses and went back to Kansas? A Yes sir.

Q How long were you here building those houses?

A Was'nt here over three weeks as near as I can remember.

Q The you returned to Kansas after that? A Yes sir.

Q When did you get back to Kansas? A Up there sometime in the latter part of August.

Q And then when did you fix to move? A Just as soon as we could sell out our crops and come.

Q What time was that? A Along in the fall.

Q Along in the fall covers a hundred days nearly?

A Not exactly a hundred days, we was'nt longer than we could sell out.

Q Were you there in October or November?

A I won't be certain but we come before cold weather.

Q You didn't come later than November? A Not later than that, I know we was not gone long, we was in a hurry to get back we brought plows down here and was in a hurry to get back.

Q Did you get back down as early as October? A I won't say, I ain't certain and wont say; we was back here before cold weather that fall. We went up there and russed around terrible to get back because we wanted to get here and get fixed up before cold weather.

Q Was there any settlers on Big Creek when you come? A No sir, when we was hunting. One time we run up against John Wiley and they said we was here three days, and run up against John Coker, and he said we are just here.

Q Where was that? A Down here on Verdigris.

BY COM'N. NEEDLES:

Q How old are you? A About 58.

Q What is your post-office? A Nowata, now.

Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.

Q On the 1880 roll? A Yes sir.

BY MR. SMITH:

Q Who else was in this crowd you speak of that this applicant was in? A Last crowd, I could not name all the people that come.

Q I am talking about the crowd that this woman Galia Chambers, was in; was any of her people besides herself in the crowd?

A Her husband was along and several others.

Q Do you know Abbie Ward, her sister?
A She don't go by Ward now does she?
Q No, what is her name now, Abbie Maynew? A I am acquainted with her, she went by some other name then, Abbie Ball.
Q Do you know her? A Yes sir.
Q How long have you known her? A About since I knowed this other one, about the time I got acquainted with this other one.
Q When did you first see her in the Cherokee Nation after the war?
A I saw her in the fall of '86.
Q Well, where did you see her in the Cherokee Nation?
A On Big Creek.
Q How did she get there? A She come with these other folks, we all come together.
Q With what other folks, her sister? A Her sister.

BY MR. BELL:

Q Do you know anything of her birth or parentage? A No sir.
Q Do you know anything of this Gelia Chambers birth or parentage?
A No sir.
Q You don't know whether they were Cherokee Freedmen or not?
A Only what they say.
Q Well I am asking you what you know? A I don't know.

BY COM'R. NEEDLES:

Q She was a freed woman in '86, was'nt she? A Yes sir.

BY MR. SMITH:

Q Do you know where she lives now? A Up on Big Creek.
Q How long has she lived there? A Ever since '86.

JIM ALBERTY, being first duly sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Jim Alberty.
Q How old are you? A 70 years old.
Q Where do you live? A I live in Saline District, eight miles east of Okouteau.
Q How long have you lived in the Cherokee Nation?
A I am 70 years old, I have lived there that long.
Q Have you lived here all your life? A Yes sir.
Q Do you know this applicant, Gelia Chambers? A Yes sir.
Q How long have you known her? A Known her from the time she was a girl up until now.
Q Do you know who her owner was? A I know who her first owner was; her first owner was Stover.
Q What Stover was that? A John Stover, lives this side of Mayesville.
Q Where did you first see her after the war was over?
A Right on the east prong of Big Creek in 1866.
Q In the Cherokee Nation? A Yes sir.
Q Do you know her, Abbie Ball, or Maynew?
A I have saw her, I have no acquaintance with her.
Q Do you know anything about when she came back to the Cherokee Nation? A No I could not tell that.
Q You don't know? A No sir.

BY MR. BELL:

Q Were you living on Big Creek Jim, at the time you saw this Gelia Chambers? A Yes sir, that is, Fobe Martin was on my place there.
Q About what time of 1866 was it? A It was in the fall of '66 when I saw her.

- Q Along in September or October? A I can't give you any date.
Q It was either in September, October, November, or December?
A It was along in there somewhere, I can't give you any date.
Q You say Tobe Martin was on your place? A Yes sir.
Q What Tobe Martin was that? A Tobe Martin that use to belong to Jim Vann, he is out here now.
Q When did you make that place? A I made it before, about the time them folks ~~begin~~ first begin to come in on Big Creek, Tusk Brown owns it now.
Q You made it sometime about three months before these folks come back? A I don't know, I had it a year or two before you come down to the Salt lake and bought sale there.
Q You made it in the year '65, then did you? A No, in '66.
Q What time, in the Spring? A No, in the Fall.
Q Was you living up there at the time you saw this woman?
A No sir, Daniel Hicks had bought that old Marcum place and I had Tobe up there.
Q You said you saw this woman up on Big Creek there in '66?
A I was building my house and they was not.
Q You said Tobe was living up there? A You said where I was when you saw them; I was up there and she come there and after that I put Tobe there and they come down before.
Q You put Tobe in the house after you saw this woman?
A Yes sir, that is the way it is.
Q That's better? A That is the way it is.
Q Who was John Stover you say that was the first owner of this applicant? A He was white man, married a Cherokee.
Q Where did he live when you knew him? A He lived right this side of where you use to live, you know this side of Mrs. Buffington, between here and there.
Q That was up by Beaty's prairie? A Yes sir.
Q Now whereabouts on Beaty's ~~prairie~~ prairie did he live?
A Oh you have gone to where I can't go, I told you this side of Mayesville, I can't tell you a spot in any country; it was this side of Mayesville, this side of Jack Bell's where you lived.
Q Now a house, lots, and fields, is a good deal bigger than a girl?
A Yes sir.
Q You recollect all about the girl and don't recollect the place?
A I cared about the girl and I didn't care about the place.
Q How large was she when you first saw her?
A She was a good bit of a girl.
Q About how old was she? A I don't know; I don't know how old I was myself and I can't give you any age.
Q Down about ten years? A I don't know.
Q About how big? A I don't know.
Q You don't know how high she was? A She was a girl about as high as that (indicating).
Q Did you ever see her more than once? A I have seen her lots of times.
Q How long did that time go on? A Every time I would go up there to ride mile heats, Jim Kell's, you know where that is better than I do.
Q What was her mother's name? A I don't know; I don't know really know whether I have saw her mother or not.
Q You were never up there and seen her after that race track was abolished and quit running? A No sir, of course I never seen her after that.
Q Do you know what become of her after you left there?
A No sir, I don't.
Q You don't know whether she was sold or otherwise?
A I don't know anything about that.

BY MR. SMITH:

Q What you have just been stating, was that before the war or after the war? A When she was a girl.

Q Yes? A That was before the war, I knew her then and know her to be.

BY MR. BELL:

Q That raising quit there about '80, didn't it? A I don't know a thing about that; you want to fetch me to something I don't know anything about.

Q All you know you want there to ride races?

A Yes sir, I went there to ride races.

ABBIE MAYHEW, being sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Abbie Mayhew.

Q Do you know Celia Chambers? A Yes sir.

Q Are you related to her? A Yes sir.

Q What kin are you? A Half sister.

Q How old are you? A I just don't really know my age for certain.

Q Which is the older, you or Celia? A I am the oldest, she don't know anything about her mother.

Q Are you married or single? A I am married.

Q Were you a slave? A Yes sir.

Q Whom did you belong to? A I first belonged to Mr. Hastings' grandmother.

Q What was her name? A Her name was Charlotte Stover.

Q Whom did you belong to after that? A They sold me to Mose Ward.

Q Whom did you belong to when the war broke out? A Mose Ward.

Q Who was he? A Cherokee.

Q Where did he live? A Up there about Mayesville, place called Beatty's prairie.

Q Lived in the Cherokee Nation on Beatty's prairie? A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where did you go to? A I went on up to Fort Scott.

Q When did you come back to the Cherokee Nation after the war?

A I came back in the fall of '88.

Q Who did you come back with? A Sam Webber attachment of them.

Q Did you come back at the same time your sister came back?

A Yes sir.

Q Where do you live now? A I live on Big Creek.

Q In the Cherokee Nation? A Yes sir. (been living

Q How long have you lived there? A I have lived there ever since

Q Ever since you came back in '88? A Yes sir.

Q Well, to whom did your sister Celia belong? A John Stover, same person I did, I and her belonged to the same people.

Q Do you know whether John Stover sold her before the war or not?

A Yes, sold her before the war when she was a little bit of a girl, sold her to Ann Parks.

Q Who was Ann Parks? A Johnson Thompson's sister.

Q Was she married? A Yes sir.

Q What was her husband's name? A John Parks.

BY COM'R NEEDELS: Celia Chambers applies for the enrolment of herself and three children, to-wit: Alcock Adair, Goldy Adair and Elsie M Adair, and for her grandchild, Lela Whitmore, whom she avers is the child of her daughter, Elsie May Adair. Her name is not found upon the authenticate roll of 1880 or the census roll of 1896; she is duly identified upon the Karna-Clifton roll as Celia Chambers, and upon the Wallace pay roll as Celia Parks, that having been her maiden name. She avers

that she was married to one Adair, who is the father of these children for whom she applies, and the names of said children, Aleck, Goldy and Elsie M. Adair, are identified upon the Kerns-Clifton pay roll. The name of her grandchild, Lela, is not found upon any of the rolls, having been born after the rolls were compiled. She is duly identified, but for the reason that her name is not found upon the authenticated roll of 1880, and for the further reason that their citizenship is contested by the Cherokee Nation, Gelia Chambers, her three children and her grandchild, as enumerated herein, will be listed for enrollment as Cherokee Freedmen on a doubtful card, awaiting further consideration of the Commission. It will be necessary for her to file with this Commission satisfactory proof of the birth of said Lela Whitmire, before the enrollment of said Lela Whitmire will be complete. She will be duly notified when the decision of the Commission is arrived at.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this 3rd, day of June, 1901.

(signed) T. B. Needles
Commissioner.

File with C. F. D. 446. Gelia Chambers, et al.

Supl. C.F.D. #447.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., October 28th, 1901.

In the matter of the application of Abbie Mayhew for enrollment as a Cherokee Freedman; the following supplemental testimony is offered on part of the Cherokee Nation.

Appearances:

Mellette A. Smith, attorneys for applicant;
Mr. Davenport, of counsel for Cherokee Nation.

A. R. WAYNE, being duly sworn and examined by Commissioner Breckinridge, testified as follows on part of the Cherokee Nation:

- Q Give me your full name? A A. R. Wayne.
Q How old are you? A I am 58 years old.
Q What is your post-office? A Mound City, Linn County, Kansas.
Q Are you a citizen of the State of Kansas? A Yes sir.

Mr. DAVENPORT:

- Q How long have you lived in and near Mound City, Kansas, Mr. Wayne?
A I have lived there continuously, except a little over three years I was in the war, since 1895.
Q Did you know a colored family up there by the name of Ball? Did you get acquainted with them? A I knew all of the Ball's.

"R"

File with C. V. D-451, Benjamin Adair, et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 2*, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in the matter of the application of Celia Chambers, et al., for enrollment as Cherokee and Freedmen, D-446.

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I.T., attorneys for the applicants;

W.W.H. J.S. Davenport, of attorneys for Cherokee Nation.

W.H. NOBLE, being sworn and examined testified as follows:

BY MR. DAVENPORT:

Q What is your name? A W. H. Noble.

Q Where do you live? A On Big Creek.

Q How long have you lived on Big Creek? A About thirty odd years.

Q Where is Big Creek? A It is in Cooweescoowee District.

About the center of Cooweescoowee District.

Q Running to the Kansas line from the Cherokee Nation? A Yes sir.

Q You know Celia Chambers? A Yes sir.

Q How long have you known her? A I have known her as Mrs. Adair, George Adair's wife, until the last four or five years, when she married Chambers, right there in my neighborhood, right under me.

Q You say she was living with Adair? A Yes sir, George Adair.

Q When did she first come into your neighborhood there on Big Creek? A I think as well as I can recollect in the spring of 1870.

Q Who did she come there with? A George Adair and George Adair's wife.

Q You had been living in that country since when on Big Creek? A Ever since about '64, '5 I guess, '66, probably. '63 when I moved over on to Big Creek, about '66.

Q How far is she living now from where she first came in that country and settled? A Right in the first place where she settled; right on the same farm, where she settled in '70 or '71, lived on the same place yet.

BY MR. MELLETTE:

Q Mr. Noble, when did you locate on Big Creek? A I think it was in about '67, that I went there first.

Q What time in '67? A I think I went there first along in the winter of '67 and then commenced improvements there in the spring of '67.

Q Where did you go from when you went on Big Creek there? A From Cabin Creek.

Q U close to Chetopa, Kansas? A Yes sir.

Q What Freedmen cases was it you testified in at Vinita? A I could not say now.

Q Now Mr. Noble, you remember that you were brought in there at Vinita before this Commission as a witness in the Freedmen cases, and you testified that you were living up near Chetopa, Kansas, and in '67 on Cabin Creek, didn't you? A I was on Cabin in '67 and I was also on Big Creek in '67, all the same.

Q What part of '67 did you go over on Big Creek? A I couldn't say at to that just what time, but sometime in the spring of the year, I went over there.

Q Now didn't you testify in Eliza Gaines' case that you were living up near Kansas, Chetopa, Kansas, in the fall of '67? A I could not say as to that.

Q Now you remember the case very distinctly don't you? A I could not say for that, I was there on Big Cabin and I was also on Big Creek in '67 both; they are near about eight miles apart.

Q You don't remember when you testified in the Eliza Gaines case

there what year the war closed, did you? A I think not, just at that time, but I could afterwards.

Q What? A I didn't at that time, but I could afterwards.

Q Now you are willing to swear positively that you moved to Big Creek in '67, are you? A Yes sir.

Q What time did you permanently locate on Big Creek in '67? A We went there in the spring and I moved my stuff there during the summer of '67.

Q Then you were not on Cabin near Chetopa, Kansas, in the fall of '67? A Why principally, yes.

Q You didn't live there? A I lived with my uncle, yes, at that time I was a youngman.

Q You didn't have any regular home at that time? A No sir, not then.

Q You don't know where Celia Chambers come from when you first saw her? A She was on Big Creek when I first saw her.

Q You don't know where she was before that though? A No sir.

Q She might have been in that country so far as you know? A Not up in that section.

Q Did you see everybody up in that country? A In that year I was all over that country.

Q You don't pretend to swear that you saw everybody in that country do you? A No sir.

BY MR. MELLETT: I want the testimony of this witness in the Eliza Gaines case made part of the testimony in this case.

BY COMMISSIONER: The request of the attorney for the applicant will be complied with, and the testimony made part of the record.

This testimony will be filed and made part of the record in the following Cherokee Freedmen cases No. D 447, D 449 D 451 D 452 and D 560.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this February 28, 1902.

[Signature]

Commissioner.

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COMMISSION TO THE

NOTARY PUBLIC
STATE OF NEW YORK
In the County of ...
I, the undersigned, do hereby certify that ...
has been duly elected ...
and is qualified to exercise the duties of the office of ...

NOTARY PUBLIC

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and is qualified to exercise the duties of the office of ...

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 21, 1902.

In the matter of the application of Benjamin Adair and
others for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO N-451.

APPEARANCES:

Lewis T. Brown, representing Mellette & Smith, for
Applicants.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that the testimony taken
by the Cherokee Nation in Freedmen Doubtful be made a part of the
record in this case.

COMMISSIONER: The request of the Nation will be complied with
and the testimony filed.

Arthur G. Gradinger, being first duly sworn, states that as
stenographer to the Commission to the Five Civilized Tribes he re-
ported in full the proceedings in the above case, and that the
foregoing is a true and complete transcript of his stenographic
notes thereof.

Arthur G. Gradinger

Subscribed and sworn to before me this 1st day of July, 1902.

[Signature]
Notary Public.

(Seal)

1. The first of these is the fact that the Government has not been able to secure the necessary funds to carry out its policy of maintaining the value of the pound at its pre-war level. This has been due to a variety of factors, including the fact that the Government has not been able to secure the necessary foreign exchange to finance its policy.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERMY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Benjamin Adair, D 451;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothanberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Page 1 missing

- Q What was the families name you got acquainted with?
A Arthur Ball and Spence Ball.
Q Did Arthur Ball have a wife? A Claimed her as wife and I understood he was married.
Q Did you know what her name was? A Yes sir.
Q What was her name? A They called her Abbie Berry, that is what she called her name.
Q Do you know whether or not she lived up there before she and Arthur Ball went to living together? A Yes sir.
Q Who did she live with before she went to living with Arthur Ball?
A Yes sir, I first knew her she was living in the family of Anderson Turk.
Q Then did she afterwards live together with Arthur Ball as his wife?
A Yes sir.
Q When did you first get acquainted with Abbie Ball, or Berry, Mr. Wayne? A It was in '88.
Q Where was she living at that time? A About four miles and a quarter northwest of Mound City.
Q When did you get acquainted with Arthur Ball? A Well, it was a number of years before that; I could not tell you.
Q You had known Ball before you did Abbie? A Yes sir.
Q Well now then, when was the last time you know of your own knowledge they were living in that neighborhood or country there, what year? A Well, I know they were living there in 1879.
Q Were you at their house, or Ball with you, or anything that makes you remember that? A Yes sir.
Q Well what was the circumstance that makes you remember? A There was quite an excitement in that country with regard to lead and I got somewhat interested and I heard there was a coloredman at Iola, about 35 miles from where I lived, and I got this Arthur Ball for to go with me as he was acquainted with this colored man and we had a conversation.
Q That was in what year? A That was in 1879.
Q Do you know where Arthur was living with his wife, Abbie?
A They was living there in Mound City, or about a mile and a half, they were living out after that on the place; he had a little farm and lived there for a while, but at that time I did not hear---
Q When she left that country was she and Arthur Ball living together as man and wife? A Yes sir.
Q You don't know where they went to? A No sir.

MR. SMITH:

- Q Well, Mr. Wayne, you don't know that this woman, Abbie, was this mans wife, or that she lived with this man, except what you heard?
A No sir, no more than any other family there is in my community.
Q Well you say that you heard they lived together? A Yes sir, and I heard they was married.
Q Where did you get acquainted with this woman? A The first time I ever saw her was in the family of Anderson Turk, about four miles and a quarter northwest of Mound City.
Q That was in 1888? A Yes sir.
Q You didn't know anything about her prior to that time?
A I did not; I have met the lady before that but at that time is all I can call to mind.
Q Well, how long did she live at the place you saw her when she was living with Anderson Turk? A I don't think she lived there a great while until she went to Mound City and worked in the Hughes Hotel.
Q What was she doing? A Cooking.
Q Was hired out and worked? A Yes sir.
Q You nver saw her with this man you are talking about?
A Except on one occasion.
Q Where was that? A It was when me and Arthur went to Iola.

Q How long had it been since you had seen her before that, do you know; seen her after she worked in that hotel that time?
A No sir, I think they were married when she was working in the hotel.

Q Well, now, how long was that before you saw her with Anderson Turk? A I saw her around there for several years.

Q Well, you saw her at the hotel; how long was that from the time you first saw her? A I don't think it was more than six months.

Q Well, did you ever see her again ~~afterwards~~ until you saw her after you made this trip you were speaking about? A No, to my knowledge only once.

Q Only once? A That is all to my knowledge.

Q So that makes -- you don't remember the last time you saw her, the year it was? A No sir, I remember her after that, I remember the circumstance that happened.

COM'R. BRECKINRIDGE: This will be filed as supplemental testimony in Cherokee Freedman case D-447, of Abbie Mayhew, and also in Cherokee Freedman case, D # 446.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson.

Subscribed and sworn to before me this November 7th, 1901.

(signed) T. B. Needles
Commissioner.

File with CFD-446, Celia Chambers.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28th, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in the matter of the application of Celia Chambers, et al., for enrollment as Cherokee Freedmen, D-446.

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I. T.,
attorneys for the applicants.
J. S. Davenport, of attorneys for Cherokee Nation.

W. H. NOBLE, being sworn and examined testified as follows:

BY MR. DAVENPORT:

Q What is your name? A W. H. Noble.
Q Where do you live? A On Big Creek.
Q How long have you lived on Big Creek? A About thirty odd years.
Q Where is Big Creek? A It is in Cooweescoowee District. About the center of the ~~the~~ Cooweescoowee District.
Q Running to the Kansas line from the Cherokee Nation? A Yes sir.
Q You know Celia Chambers? A Yes sir.
Q How long have you known her? A I have known her as Mrs. Adair, George Adair's wife, until the last four or five years, when she

married Chambers right there in my neighborhood, right under me.

Q You say she was living with Adair? A Yes sir, George Adair

Q When did she first come into your neighborhood there on Big Creek?

A I think as well as I can recollect, in the spring of 1870.

Q Who did she come there with? A George Adair, and George Adair's wife.

Q You had been living in that country since when, on Big Creek?

A Ever since about '64. '5 I guess, '66 probably. '66 when I moved over on to Big Creek, about '68.

Q How far is she living now from where she first came in that country and settled? A Right in the first place where she settled; right on the same farm where she settled in '70 or '71, lived on the same place yet.

BY MR. MELLETTE:

Q Mr. Noble, when did you locate on Big Creek? A I think it was in about '67, that I went there first.

Q About what time in '67? A I think I went there first along in the winter of '67 and then commenced improvements there in the Spring of '67.

Q Where did you go from when you went on Big Creek there?

A From Cabin Creek.

Q Up close to Chetopa, Kansas? A Yes sir.

Q What Freedmen cases was it you testified in at Vinita?

A I could not say now.

Q Now, Mr. Noble, you remember that you were brought in there at Vinita, before this Commission as a witness in the Freedmen cases, and you testified that you were living up near Chetopa Kansas, and in '67, on Cabin Creek, didn't you? A I was on Cabin in '67, and I was also on Big Creek in '67, all the same.

Q What part of '67 did you go over on Big Creek? A I couldn't say as to that just what time, but sometime in the spring of the year I went over there.

Q Now didn't you testify in Eliza Gaines' case that you were living up near Kansas, Chetopa, Kansas, in the fall of '67?

A I could not say as to that.

Q Now, you remember the case very distinctly don't you?

A I could not say for that, I was there on Big Cabin and I was also on Big Creek in '67 both; they are near about eight miles apart.

Q You don't remember when you testified in the Eliza Gaines case there what year the war closed, did you? A I think not just at that time, but I could afterwards.

Q What? A I didn't at that time but I could afterwards.

Q Now you are willing to swear positively that you moved to Big Creek in '67, are you? A Yes sir.

Q What time did you permanently locate on Big Creek in '67? A We went there in the spring and I moved my stuff there during the summer of '67.

Q Then you were not on Cabin Creek near Chetopa, Kansas, in the fall of '67? A Why, principally, yes.

Q You didn't live there? A I lived with my uncle, yes, at that time I was a young man.

Q You didn't have any regular home at that time? A No sir, not then.

Q You don't know where Oelia Chambers come from when you first saw her? A She was on Big Cabin when I first saw her.

Q You don't know where she was before that though? A No sir.

Q She might have been in that country so far as you know?

A Not up in that section.

Q Did you see everybody up in that country? A In that year I was all over that country.

Q You don't pretend to swear that you saw everybody in that country do you? A No sir.

-1-

BY MR. MILLER: I want the testimony of this witness in the Klips Gainer case made part of the testimony in this case.

BY COMMISSIONER: The request of the attorney for the applicant will be complied with, and the testimony made part of the record. This testimony will be filed and made part of the record in the following Cherokee Freedman cases: No. D-447, D-449, D-451, D-452, and D-560.

M. D. Green, being first duly sworn, states as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) M. D. Green

Subscribed and sworn to before me this February 28th, 1902.

(signed) T. B. Needles,
Commissioner.

I, Mattie E. DeWitt, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I copied the foregoing testimony and proceedings in the above stated case, and the same is a true copy from the original.

Mattie E. DeWitt

Sworn to and subscribed before me this 2nd, day of August, 1902.

Bruce Jones
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Jacob Ross, et al., as Cherokee Freedmen, consolidating the applica-
tions of

Jacob Ross, et al.....	Cherokee Freedmen	D	539
George Ross, et al.....	"	D	540
Moses Ross, et al.....	"	D	541
Sarah Allen, et al.....	"	D	543
Rosanna Skaggs, et al....	"	D	545
Willie Ross, et al.....	"	D	838
Thomas Archer, et al.....	"	D	901
Eli Archer.....	"	D	1002
Celia Thompson, et al....	"	D	446
Jessie Brown, et al.....	"	D	449
Benjamin Adair, et al....	"	D	451
Abbie Rowe, et al.....	"	D	452
Peter Adair.....	"	D	560
Frank Whitmire, et al....	"	D	956
Austin Whitmire, et al...	"	D	974
Nelson Whitmire.....	"	D	1090
Abbie Mayhew.....	"	D	447

-: D E C I S I O N :-

The record herein shows that applications were made to this Commission for enrollment as Cherokee Freedmen by Maria Ross, for herself, her husband, Jacob Ross, her daughter, Ella Ross, and her minor grandchild, Thomas Anderson; the said Thomas Anderson, being differently classified, is not embraced in this decision; by George Ross for himself, his wife, Rosa Ross, and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself and her husband, William Skaggs; the said William Skaggs claims only by intermarriage and his rights are not passed upon in this decision; by Willie Ross for himself, his wife, Rosa, and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself and his wife, Georgeann Archer; the said Georgeann Archer claims only by intermarriage and her rights are not passed upon in this decision; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Alack, Goldy and Elsie May Adair and her minor grandchild, Edna Whitmire; by Jessie Brown for herself, her husband, Robert Brown, and their minor children, Turner, Bessie, Gracie, Claudy and Celia Brown; the said Robert Brown claims only by intermarriage and his rights are not passed upon in this decision; by Benjamin Adair for himself, his wife, Lizzie Adair,

and their minor children, Isaac, Ollie, George, Cleveland and Aid Adair; by Abbie Rowe for herself and her minor children, Arthur, Minnie and Abbie Rowe; by Peter Adair for himself; by Frank Whitmire for himself and his minor children, Jesse, Ada, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Mineola, Josephine and Arthur Whitmire; by Nelson Whitmire for himself; and by Abbie Mayhew for herself.

Copies of the testimony, taken at Muskogee, Indian Territory, on April 15, 1902, in the case of Nelson Murrell et al., Cherokee Freedmen D-548; at Muskogee, Indian Territory, on May 16, 1902, in the case of Mary Harris et al., Cherokee Freedmen D-528; and at Vinita, Indian Territory, on October 3, 1901, in the case of David Martin et al., Cherokee Freedmen D-486, are filed herewith and made a part of the record in this case.

The evidence in this case shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the commencement of the rebellion and were taken out of said nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to said nation within the time specified in the decree of the Court of Claims, rendered on February 3, 1896, in the case of Moses Whitmire, trustee etc., vs. the Cherokee Nation et al., for the return of freedmen to the Cherokee Nation; that Frank Whitmire did return to the Cherokee Nation within the time specified in the decree of the Court of Claims of February 3, 1896, supra.

That Ella Ross, George Ross, Moses Ross, Willie Ross, Rosanna Skaggs, Sarah Allen, Fred Ross, Stella Ross, Emma Ross, Lee Etta Ross and Oscar Tucker are the children and grandchildren of Jacob and Maria Ross, born since 1866, and possess no rights to enrollment except as their descendants. That Louisa Burney was born subsequent to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll. That Ross Ross, the wife of George Ross, was born since 1866 and claims the right to enrollment through her father, one Louis Gibson, whose application for enrollment as a Cherokee Freedman has been denied by this Commission. (see Cherokee Freedman D-774). That Eli Archer and Rosa Ross, wife of Willie Ross, were born since 1866 and are the descendants of, and claim the right to enrollment through, Thomas Archer and his wife, Delsie Archer, who returned to the Cherokee Nation with her husband after the rebellion. That Rachel Ross, wife of Moses Ross, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant, Austin Whitmire, Nelson Whitmire, Cora Whitmire, Mineola Whitmire, Josephine Whitmire, Arthur Whitmire, Lela Whitmire, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair and Aid Adair are the children and grandchildren of Frank Whitmire, born since 1866, and claim the right to enrollment through the said Frank Whitmire. That Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Glendie Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe are the children and grandchildren of the said Celia Thompson, born since 1866, and claim the right to enrollment through the said Celia Thompson.

The evidence further shows that Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair,

Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Abbie Mayhew are not identified upon the Cherokee tribal roll of 1880.

It further appears that Frank Whitmire has resided continuously in the Cherokee Nation since his return thereto, in 1866, with the exception of about one year when he had a temporary residence in the State of Missouri, and that the applicants Lela Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Minnie Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire and Louisa Burney have resided in the said nation since birth.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Emma Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson, (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner, Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Annie Mayhew, as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stat., 495); and it is further the opinion of this Commission that Lela Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Frank Whitmire, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Minnie Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire, and Louisa Burney, should be enrolled as Cherokee Freedmen, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tans Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory

Dec 16 1904

12

No. D R 451

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901

Given under my hand this
day of..... A. D. 1901.

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

day of SEP 18 1901 1901.
Milledge Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the day of..... A.D. 1901

Subscribed and sworn to before me
this day of..... A.D. 1901.

DEPARTMENT OF THE INTERIOR, Notary Public.
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
SEP 20 1901

[Signature]
Notary Public

NOTICE!

IN THE MATTER OF the application of Benjamin Adair
for enrollment as a Cherokee citizen:

Case No D 451

To Benjamin Adair & Mellette Smith atty

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory.
Indian Territory, on Oct 26/1901 at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 14 1901

L B Bell

W. O. Hastings

Attorneys for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR
RECEIVED
JAN 1905

Enc. No. 40 460

Department of the Interior
RECEIVED
SEP 7 1905
Enc. No. 7 of No. 719
Indian Territory Division

James McKinney; Jesse Vann, et al., D 254; Daniel Lynch, et al., D 316;
Katie Eaton, et al., D 190; William Vann, et al., D 309; Kattie Vann, D 4
Gale Campbell, et al., D 5; George Webb; Lucile Webb; Arthur Webb;
Katie Webb; Rebecca Hill; Eli Curry; Bertie Glass; Eva Durrant; Katie
Webb; Betty Webb; Joseph Webb; Arthur Webb; Katie Webb; Katie
Webb; Rebecca Hill; Eli Curry; Bertie Glass; Eva Durrant; Betty Webb;
D 433; Louis Webb, Sr., D 444; Louis Webb, Jr., D 454; Cora Webb;
D 454; Louis Webb, D 484; Bulah Webb, D 484; Margaret Webb, D 484;
Joseph Webb; Sr., D 628; Joseph Manley, Sr., D 628; Etta Manley;
Joseph Webb; D 583; Harvey Manley, D 583; Freddie Manley, D 583;
D 583; Alonzo Manley, D 583; Maynard Manley, D 583; Howard Manley, D 583;
Tennie Manley, D 583; Maynard Manley, D 583.

Schedule of names of Cherokee Freedmen, Claimants to
Cherokee Citizenship on behalf of whom motions
for the reopening and reconsidering
of their cases on the ground
of domicile in the Cher-
okee Nation are fil-
ed herewith.

Benjamin Adair; Martha Albert, et al; Henry Albert, et al; Jerry Al-
bert; Sarah Allen, et al.; Ali Archer, et al.; Thomas Archer; Thomas Ar-
cher; Bertie Archie; Eliza Arnold; Perry Adams, et al. D. 880; Samuel
Adams, R. 93; Josie Alberty, Easter Alberty, George Rider, Henry Rider;
Carlos Rider, Flora B. Rider, Inella Rider;
Susie Barker, et al.; John Barnes, et al.; Robert Barnes; Harry Bean,
et al.; Lucy Bean; Mary Bean; Mary Bean, et al.; Sarah Bean; Jesse
Beason; Annie Bell, et al.; Heavey Bell; Margaret Bell; Jesse May Brown,
Arthur Bell, Georgiana Lewis, Benie Williams, Nancy Ann Lewis, Mattie
Williams, Loretta Brown, Emily Jane Bell, Tensie Bell, Tennessee Lewis,
George C. Bell, Thomas Bell; William Bell; Katie (Cody) Blackwell, Ger-
tie Tennin, Lunnie Tennin, Thomas Ros; Amanda Brown, George Brown,
Luella Jones, Carrie Jones, Carrie Jones, Theodore Jones, Georgia A.
Jones, Ray Jones, John Brown, Willie Brown; Charley Brown, Jr. et al.;
George Brown; Isabelle Brown, et al.; Jessie May Brown, D 193, Thomas Bell
et al. D 188, Georgie Brown, et al. D 192, Emily Jane Brown, et al. D 193,
Nancy A. Lewis, et al. D 194, Sandy Williams, et al. D 195; John Brown;
John Henry Brown; Joseph Brown, et al.; Lettie Brown; Richard Brown, et
al.; Warren Brown; Eliza Bryant, et al. D 561; .
Joseph Campbell; Oma Campbell, et al; Hattie Carroll, et al; Paul Childers,
Clarence Childers, Joy Childers, Elmer Looney; Lizzie Clayton, et al.;
John Collins, Betsey Reed, Hannah Brown, Myrtle Brown, Silas Harris,
Mamie Harris, Minnie Harris, Jesse Green, Eva Green, Cora Green, Homer
Mayes, Blanche Mayes, Lourena Mayes, Blanche Mayes, Andrew Mayes, Hom-
Mayes, Sarah Hines, Clinton Hines, Clifton Hines, Clifton Hines, Seni-
Borgan, Rebecca Collins, John Collins; Rebecca Collins; Jackson Coody,
et al.; Felix Corbin, et al.; Mazy Corbin, Lee Corbin, Alex Corbin, James
Corbin, William Corbin, William Corbin, Frank Corbin, Louis Corbin,
Teenie Corbin, Sanford Corbin; Nettie Corbin, et al.; William Corbin;
Julius Curls; Maggie Curls; Riley Curls, Willie Curls, Edward Curls,
James Curls, Georgia Curls, Stephenia Cuffles, Clarence Curls; Leah
Cushing berry, Samuel Fleck, Winnie Cushingberry, Jerome Gardner,
Odeal Gardner;
Mandia Daniels, Nee Hill; Ransom Daniels, Harry Daniels, Maggie Daniels,
Joseph Daniels, Margaret Daniels Beatrice Daniels, Ord O. Bell, George
D. Bell, Buela Bell; Ransom Daniels, et al; D812, Margaret Bell, et al.
D 874.; George C. Davis, et al.; Jackson Davis, Sallie Whitmore, John
D. Davis, William Davis, William Davis, Ellen Bell, Mannie Bean; Alex-
ander Downing, D 668, Thomas Downing, D 669, John Downing, D 670, War-
ren Downing, D 671, Solomon Downing, D 672; Alexander Downing, Thomas
Downing, Andrew Downing, Solomon Downing; Elias Downing, Elizabeth Jones,
Flora Jones, Rosetta Jones, Arrileus Jones, Johnson Downing; Fred Down-
ing, et al.
Nettie Eaton; Sadie Edmonson, et al;
Melvina Farris, et al.; William H. Fields, Elias H. Fields; Sam Flax;
Oliver Flynn; Sarah Flynn, et al.; Ned Foreman; Evan Fox, et al.; Tobe
Looney, et al.; Eliza Looney, Frank Looney, Joe Ross, et al.; Phillis
Alexander, et al.; Nelson Murrell, et al.; Lewis Ross, Allan Looney,
et al.; David Ross, et al.; Steve Looney, et al.; Chaney Ross, Emma
Brown, et al.; Maggie Willis, et al.; John Freeman, et al.; George Free-
man, Eliza Cannon, Oma Freeman, Mary Thompson, et al.
Napoleon Gibson, et al.; Posey Gibson; Arra Gray, et al.; Louisa Gray,
Gertie Foreman; Emma Grubbs; et al.; Harry Grubbs; Louis Gunter, et al;
Eliza J. Hardwick, et al; Moses Hardwick; William Hardwick; William Har-
per, et al.; Silas Harris, et al.; Bertha Haynes; Tinker Haynes, et al;
Margaret Mary Haynes Remitte, Ab. Buffington, William Buffington; Cath-
ine Hester, et al; Jessie Hicks, et al.; Almada Hill, et al.; D 825; Andy
Webber, D 859; Andy Hill, et al.; Haynes Hill, et al.; James Hill, John
Hill; Lottie Hill; Manda Hill; Pauline Hill, et al.; Thad Hill; W. H. Hill;
Cythia Hoard, et al.; Joshua Holt, et al.; Moses Holt; Almada Hudson, et
al.; Mary Hudson, William Beason, Jesse Beason, John Beason.; Elisabeth
Hunt, et al.;

Alexander Irons, William Lane, Chaney Lane, Reuben Lane, Emma Lane, Laura Lane, Fannie Lane, Willis Lane, Mitchell Lane, Otto Martin, Willie Martin, Charlie Martin, Annie Robinson, Thomas Robinson, Thomas Robinson, Willie Robinson, Lucky Robinson, Lindsay Robinson, Gus Martin, Fred Martin, Maud Martin, Charlie Martin, Charlie Martin, Eliza Martin, Otto Martin, Jr.; George Irons, et al. D 36, Bettie Mays, D 87, Richard Nero, (or Irons) et al. D 328, Ned Lyons, D 251, Rachael Landrum, D 252; Elias Lyons, et al. D 253, Altham Moore, et al. D 357, George W. Lynch, et al., D 731.;

Felix Jackson, et al.; Frank Jackson, et al.; Ann Johnson, Elnor Johnson, Judy Johnson, Sherman Johnson, Bessie Johnson; Lottie Johnson, et al.; Carrie Jones, et al.; Lula Knalls, et al.; Polly Landrum; Sam Landrum, Fearby Landrum, Jane Landrum, Albert Landrum, Annie Landrum, Nanie Landrum, Woody Landrum, Eva Landrum, William Todd; Sam Landrum, et al.; William Lane; Charles Lewis, et al.; Jesse Lewis, et al.; Nancy Lewis, et al.; Aggie Little, et al.; Robert Loflace, et al.; George Looney; Harvey Looney; Josie Looney, et al.; Mollie Love, Maudie Love, Charlie Love; Lloyd Thompson, Nellie Love, Uliam Love; John Love, et al.; Fannie Lowery, et al.; Thomas Lowery; Lottie Lunch, et al.; Daniel Lynch, et al.; Joe Lynch, Sophia Lynch, Eliza Lynch, Cynthia Lynch, Randolph Lynch, Ruth Lynch, Jackson Lynch, Hester Foster, Fessie Fister, Pearl Foster, Ethel Foster, Josephine Foster, Arthur Foster, Arthur Lynch, John Lynch, Stella Lynch, Nancy Curles, Lula Buffington, Rachael Downing, Martha Lynch, Jessie M. Lynch, Lio B. Lynch; Joseph Lynch, et al.; Elias Lyons, et al.; Etta Manley, et al.; Joseph Manley, et al.; Arthur Martin; Bertie Martin, et al.; Charles Martin; Eliza Martin; Harvey Martin; Harvey Martin, et al.; Jennie Martin, Harvey Martin, Perry Martin, Mable Martin Calotha Martin, Grace C. Martin, Arthur Martin, Harry Martin, Isabella Brown, Warren Brown, Lucinda Brown, Davis Brown, Cag Brown, Alfred Brown, Rachael Todd, Henrietta Todd, Louisa Todd, Minnie Todd, Julia Todd, Viola Todd, Opelia Todd, Richard Brown, Essie Brown, Isabella Brown, Mary Brown, George Brown; Josie Martin, et al.; Lewis Martin; Lewis Martin, et al. D 289, John Martin, D 656, Fred Martin, D 637, Allie Martin, D. 658, George Martin, D 911, William Martin, et al. D 940.; Lewis Martin, et al.; Melvina Martin, et al.; Neatie Martin, Sallie Johnson, Huston Johnson, Tober Martin; Rachael Martin, et al.; Tober Martin; David Mays, Jennetta C. Mays, Richard H. Mays, Josiah Mays; John Mays, et al.; Charles Mayfield, et al.; E. M. Mayfield, et al.; Sallie Mayfield; Thomas Mayfield, D 200, Charles Mayfield, et al. D 202, Melinda Martin, D 206, Emma Blue, D. 354, Moses Hardwick D 314, Silas Hardwick, D 192, Sarah Bean D 201, Nelson Hardwick, et al., D 202, William H. Hardwick, et al., D 382, Eliza J. Hardwick, D 321, Mary Hardwick, et al. D 331; Thomas Mayfield, et al.; Abbie Mayhew; Siny McCoy, et al.; John McDonald, et al., Jr. John McDonald, et al. Sr.; Tamie McGee, et al.; Charles McLain, et al.; Alfred McNair, et al.; Butler McNair; Floyd McNair; Henry McNair; Mackey (Marshall) McNair, et al.; Mattie McNair, et al.; Elizabeth Meigs; George Meigs, Sr., et al., D 394, John Meigs, et al., D 396, Flemming Meigs, et al., D 398, Irene Hanks, et al., D 401, Hattie Carroll, et al., D 402, Chlora Grayson, et al., D 496, Samuel Peck, D 775.; Dovie Middleton; Emma Miller, et al.; Henry Murrell, et al.; Frank Musgrove.

Santa Ann Nevins, et al. D 602; Kizzy Newman, et al.; Fannie Nicholson, et al., D 984.

Mary Peace; J. P. Posey, et al.; Emma Powell, et al., D 475, Sarah Robinson, et al. D 476, Nettie Powell, et al. 478, William Love, D 478, Frank Love, D 479, Amanda Gaskins, D 994, Charlotte French, D 1013;

Eliza Ratcliff; Isaac Ratcliff; Savannah Reese; George Anna Reeves, et al.; George Richardson, et al.; Henry Rider, et al., D 918, Josie Rider, et al. D 870, George Rider; D 918, Fred Riley; et al.; Annie Robinson; Alice Rogers et al.; Eddie Rogers; Arthur Ross; Calvin Ross, et al.; Dave Ross, Hattie Ross, Rufus Ross, Eliza Ross, Della Wortham, Nellie Hazelrig; David Ross, et al.; David Ross, et al.; Ella Ross, et al.; George Ross, et al.; Hannah Ross, et al.; Jacob Ross, Mariah Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Tucker, Rosanna Snaggs, Willie Snaggs, Rosa Ross, Emma Ross, Lee Etta Ross, Eli Ross, Thomas Archer, Celina Thompson, Aleck Adair, Goldie Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celina Brown, Addie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, Abbie Mayhew; John Henry Ross, et al.; Joe Ross, et al.; Moses Ross; Nancy Ross, et al.; Thomas Ross, et al.; Abbie Rowe, et al.; Delila Rowe, Koubretta Rowe, Daniel Rowe, Eve Rowe, Harvey Rowe, Eddie Rowe, Fred Rowe, Bells Rowe, Hattie Thornton.;

Eddy Rowe, et al.; Fred Rowe; George Rowe; Jesse Rowe, et al.; Joseph Rowe, et al.; Perry Rowe, et al.; Melissa Royal; Lula Sanders, et al.; Rosa Scaggs; Henry Shafer, et al.; Amy Shields D 720, Frank Shields, et al., D 719; Queenie Smith, et al.; Lucindia Stafford, et al.; Sarah Starr, et al.; John Taylor, D 234; William Taylor, et al.; Gertie Tennen; Celia Thompson, et al.; Daniel Thompson; George Thompson, Sr., Rhoda Thompson, George Thompson, Jr. et al., John Thompson; John Thompson; Johnson Thompson, D 133; Joseph Thornton, et al.; Katie Thornton, Millie Thornton, James Alva Thompson Thornton, Maggie Curles, Joseph Thornton, Ethel Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Curles, Bedalia Riley; William Todd, et al.; John Towers, et al.; Mary B Towers; Richard Towers; Edward Towers; Wilson Towers, Annie Towers, Lucindia McKinney, James McKinney; George Tucker; John Tucker; Paulina Turk, et al., D 566; Rachael Turk; Dennis Vann, et al.; Jesse Vann, et al.; Josh Vann, et al.; Katie Vann, et al.; March Vann, et al., D 688; Micy Vann, et al. D 369; John Armstrong, D 366; Rachael Vann; William Vann; W. J. Vann, et al.; Eliza Wait; Emily Walker, Fred Walker, Flora Walker, Bertie Walker, Ida Young, Pet Young, Caroline Young, Emma Young, Emma Walker, Hannah Brigands; William Wallace; Albert Ward; Alonzo Ward, et al.; Catherine Ward, Sim Whitmire, Samuel Whitmire; Catherine Ward, et al.; Edward Ward, et al.; George Ward; George Ward, Jr.; Joshua Ward, et al.; Peter Ward, Eliza Ward, Louis Ward, Eva Ward, Abraham Ward, Artes Ward, Ben Ward, Squire Ward, Joseph Ward, Jennie Ward, Eliza Ward, Sadie Ward, David Ward, George Ward, Alonzo Ward, Savannah Ward, Ezra Ward, Elnor Ward, Gracie Ward, Francis Ward, Berry Ward, Malinda Williams Monroe Williams, Delois Williams; Will Ward, et al.; Jordan Washington, et al.; William Waynes, Sherman Bryant, Minta Nash, Gracie Nash; Bert Webber, et al.; Edward F. Webber; Ellis Webber, et al.; Harriet Webber; John Webber; Lewis Webber, et al.; Louis Webber, et al.; Margaret Webber; Moses Webber; Wesley Webber, et al.; William M. Webber, et al.; Carry West, Henry West, Callis West, Cornelius West, Carrie West, Ella West, Watie West, Sadie West, Martha West, Vinita West; Ruston Ruston West, et al.; Allie Whitmire; Daniel Whitmire; Lydia Whitmire; Rosetta Whitmire, et al.; Sophia Whitmire; Lewis Wickliff, Sr., John Wickliff, Lewis Wickliff, Jr., Idia Wickliff, Lon Wickliff; A. Williams, et al.; Angeline Williams, et al.; Ann Williams; Lizzie Williams; Melinda Williams, et al.; Clarence Willis, et al.; Maggie Willis, et al.; Sarah Willis, et al.; Max Oliver Wilson, D 40, J. B. Wilson, D 41, Jennie Cross, Abdalla the Khedive, et al.; Pauline Wolf, et al. D. 48. Rhoda Ford, et al. D 49

And also the following:

Ben Adams, D 715, Addie White, D 722, Martha Virgil, D 726, Neatie Rogers, D 1097, Leroy Lang, D 1097; Annie Bell, Rector Bell, R 331; Polly Ann Canard, et al.; Malsy Corbin, Lee Corbin, Alex Corbin, Erwin Corbin, James Corbin, William Corbin, Nettie Corbin, Frank Corbin, & Louis Corbin, Teenie Corbin, Sanford Corbin; Elias Downing, Elizabeth Downing, Flora Downing, Rosetta Jones, Arrileus Jones, Johnson Downing; George B Duffin, D 505, Sarah Moss, et al. 66 D 506, Eliza Keyan D 507; Joshua Duffin, D 509, Frank Duffin, D 109, George H. Moss, D. 110; George Lynch, Rosetta Lynch, Eliza Lynch; Joseph Lynch, et al. D. 732, William Lynch, D 992; Charles Martin, et al. D 317, Ella Martin, D 244; David Martin, Mary A Look, Clarence Looney, Carol Looney, William Looney, Julia Looney, George F. Looney, Fred Martin, Wayn Looney, Jennette Looney, Eliza Looney, William H. Martin, Capella Martin, Charles Martin, Buck Reese Martin, Mary T. Peterson, Indio Peterson, Alack Rowe, Elizabeth Rowe, Charity Taylor, Fred Peterson, Josie Looney, Fred Martin, Elizabeth Neigs, George Neigs, Sr., George Neigs, Jr., Fleming Neigs, Irene Hanks, George Hanks, Fleming Hanks, Mattie Carroll, Katie Neigs, Nathan Neigs, Henry T. Neigs, Harriet Webber, Millie M. Webber, Mattie Webber, Moses Webber, Edward F. Webber, Mary Beck; Catherine Wix, R 133, Samuel M. R 133; Nancy Smith, Charley Smith, Cicero Smith, Bessie Smith, Elsie Smith, Toolie Smith Sallie Crump, Madelee Crump, Jackson Smith, Ulyses G. Smith, Thomas Smith; John Taylor, D 234; George Thompson, Sr., George Thompson, Jr., Rhoda Thompson, Sallie Thompson, Robert Thompson, Jesse Thompson, Georgie Thompson, Bertha Thompson, Joe Thompson, Fred Thompson, John Thompson; Wilson Towers, Annie Towers, Lucindia McKinney;

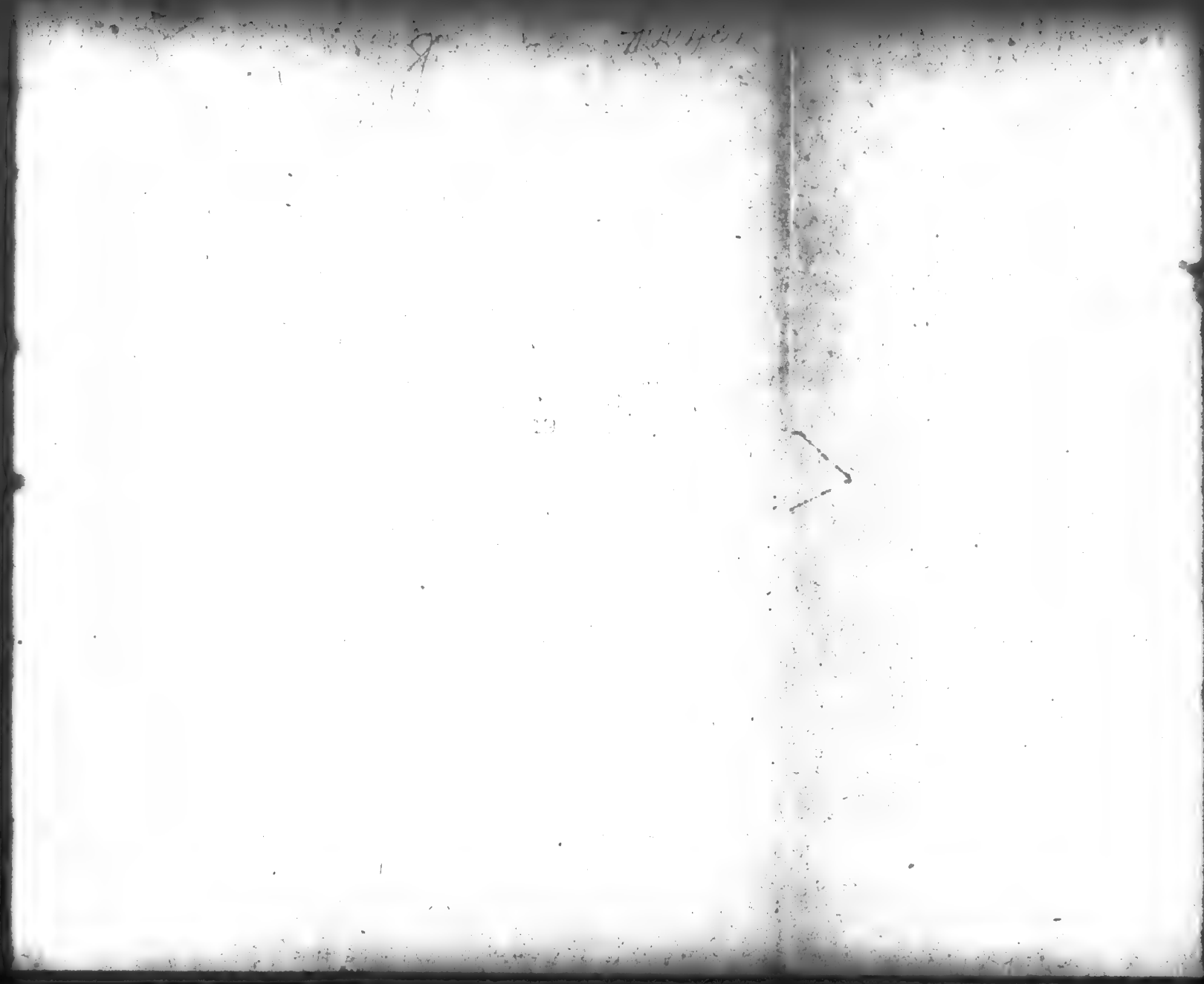
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DIVISION OF INVESTIGATION

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JAN 10 1932
U.S. DEPT. OF JUSTICE
DIVISION OF INVESTIGATION

838

Witnesses:

James McKinney; James Vann, et al., D 284; Daniel Lynch, et al., D 316;
Lottie Eaton, et al., D 100; William Vann, et al., D 309; Lottie Vann, D 4
Giles Campbell, et al., D 5; Becky Webber; Imella Webber, Arthur Webber,
Ella Webber, Rebecca Hill, Eli Curry, Bertha Glass, Eva Durant, Mable
Webber, Becky Webber, Lonella Webber, Arthur Webber, Mable Webber, Ella
Webber, Rebecca Hill, Eli Curry, Bertha Glass, Eva Durant; Becky Webber,
D 438, Louis Webber, Sr., D 484, Louis Webber, Jr., D 484, Cora Webber,
D 484, Floyd Webber, D 484, Bulah Webber, D 484, Margaret Webber, D 484,
Joseph Edward Manley, Sr., D 628, Joseph Manley, Jr., D 628, Etta Manley,
D 563, Alonzo Manley, D 563, Harvey Manley, D 563, Freddie Manley, D 563,
Leasia Manley, D 563, Raymond Manley, D 563, Howard Manley, D 563.



NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Benjamin Adair,

Hudson, I.T.

Cherokee F-D-451

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

IN RE
Application for Enrollment of
INFANT CHILD

George Adair

as a citizen of

Cherokee Nation.

Approved May 31 1901 190

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED MAY 31 1901

TAMS BIXBY

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

HERE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of George Adair, born on the 7 day of April, 1896.
(Here insert name of child.)
Name of Father: Benjamin Adair a citizen of the Cherokee Nation.
Name of Mother: Eliza Adair a citizen of the Cherokee Nation.
Postoffice Hudson I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern District.

I, Eliza Adair, on oath state that I am 28
years of age and a citizen, by Freedman citizen, of the Cherokee Nation;
that I am the lawful wife of Benjamin Adair, who is a citizen, by
Freedman citizen, of the Cherokee Nation; that a Male child was
(Male or Female.)
born to me on 7 day of April, 1896; that said child has been named
George Adair, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.) { R. Brown
C. C. Smith

Subscribed and sworn to before me this 29 day of May, 1901.

My Commission Expires March 25,
1905 P. O. Hayden, I. T.
(SEAL)

Wm. Madden Jr.
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern District.

I, Celia Chambers, a Midwife, on oath state that I
attended on Mrs. Eliza Adair, wife of Benjamin Adair
on the 7 day of April, 1896, that there was born to her on said date a Male
(Male or Female.)
child; that said child is now living and is said to have been named George Adair.

WITNESSES TO MARK:

(Must be Two Witnesses.) { R. Brown
C. C. Smith

Subscribed and sworn to before me this 29 day of May, 1901.

(SEAL)

Wm. Madden
Notary Public.

Cherokee Freedman 3-462

20

IN RE

Application for Enrollment of
INFANT CHILD

Ald Adair

as a citizen of

Cherokee Nation.

Approved May 31 1901 190

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED MAY 31 1901

TAMS BIXBY
ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR, COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Aid Adair, born on the 7 day of Feb, 1899
Here insert name of child.
Name of Father: Benjamin Adair a citizen of the Cherokee Nation.
Name of Mother: Eliza Adair a citizen of the Cherokee Nation.
Postoffice Hudson I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Eliza Adair, on oath state that I am 28
years of age and a citizen, by Freedman citizen, of the Cherokee Nation;
that I am the lawful wife of Benjamin Adair, who is a citizen, by
Freedman citizen, of the Cherokee Nation; that a Male child was
(Male or Female.)
born to me on 7 day of Feb, 1899; that said child has been named
Aid Adair, and is now living.

WITNESSES TO MARK:
Eliza Adair
(Must be Two Witnesses.) { R. Brown
C. C. Smith

Subscribed and sworn to before me this 29 day of May, 1901.
My Commission Expires March 25, 1905 Wm. Madden Jr.
P. O. Hayden, I. T. Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Abbie Mayhugh, a Midwife, on oath state that I
attended on Mrs. Eliza Adair, wife of Benjamin
on the 7 day of Feb, 1899; that there was born to her on said date a Male
(Male or Female.)
child; that said child is now living and is said to have been named Aid Adair
her
Abbie X Mayhugh
mark

WITNESSES TO MARK:
(Must be Two Witnesses.) { R. Brown
C. C. Smith

Subscribed and sworn to before me this 29 day of May, 1901.
(SEAL) Wm. Madden Jr.
Notary Public.

Cherokee Freedman 2-451

IN RE

Application for Enrollment of
INFANT CHILD

Cleveland Adair

as a citizen of

Cherokee Nation.

Approved May 31 1901 190

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED MAY 31 1901

TAMS BIXBY
ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

HERE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Cleveland Adair (Here insert name of child.), born on the 20 day of Feb, 1897
Name of Father: Benjamin Adair a citizen of the Cherokee Nation.
Name of Mother: Eliza Adair a citizen of the Cherokee Nation.
Postoffice Hudson I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern District.

I, Eliza Adair, on oath state that I am 28
years of age and a citizen, by Freedman Citizen, of the Cherokee Nation;
that I am the lawful wife of Benjamin Adair, who is a citizen, by
Freedman Citizen, of the Cherokee Nation; that a Male child was
(Male or Female.)
born to me on 20 day of Feb, 1897 that said child has been named
Cleveland Adair, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.) { R. Brown
C. C. Smith

Subscribed and sworn to before me this 29 day of May, 1901

My Commission Expires March 25, Wm. Madden Jr.
1905 P. O. Hayden, I. T.

Notary Public.

(SEAL)

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern District.

I, Celia Chambers, a Midwife, on oath state that I
attended on Mrs. Eliza Adair, wife of Benjamin Adair
on the 20 day of Feb, 1897; that there was born to her on said date a Male
(Male or Female.)
child; that said child is now living and is said to have been named Cleveland Adair

WITNESSES TO MARK:

(Must be Two Witnesses.) { R. Brown
C. C. Smith

Subscribed and sworn to before me this 29 day of May, 1901

(SEAL)

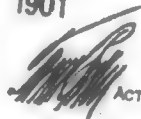
Wm. Madden Jr.

Notary Public.

72 19.441
DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 31 1901



ACTING CHAIRMAN

CHEROKEE FREEDMEN.

Date _____

Post Office

District

1. Name

Owner's name

Year.

Parents:

Father

Mother

2. Name of wife

Owner's name

Year.

Parents:

Father

Mother

Names of Children:

3.

4.

5.

6.

7.

8

4

10

11

19

Application made by

Stenographers

No 1 on K.C roll as - Ben Adams, \$
No 2 " B.C " " Fizzie Oltimore
No 1 on Wallace roll Pick No 2 H, Ben Adams, Xero. Dist.
No 2 " P 1st No 3 1/2, Eliza Whitmore, Xero. Dist.
Nos 5-6-7 Birth certificates required.
Ref to D.H.H.

Represented by Mellett & Smith, Vinita, D. C.

8

9451

DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
WASHINGTON, D. C.

FILED
JUN 17 1901


ACTING CHAIRMAN

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Benjamin Adair et al for en-
rollment as Freedmen of the Cherokee Nation, one copy of the rei-
ginal testimony of May 31st, 1901.

McClellan Smith

Attorney for Applicants.

Cherokee F. #D451.

COPY.

Cherokee Freedmen
2-438, et al.

Muskogee, Indian Territory, December 15, 1904

Hell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 15, 1904, granting the applications for the enrollment of Lizzie, Isaac, Ellie, George, Cleveland and Aid Adair, Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Minnie, Josephine, Arthur and Nelson Whitmire, Ella Bryant (formerly Whitmire), Louisa Burney and Rachel Ross, as Cherokee Freedmen, and refusing the applications for the enrollment of Jacob, Mariah, Ella, George, Rose, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Eva Ross, Sarah Allen, Oscar Tucker, Benjamin Stagg, Eli and Thomas Archer, Della Thompson (formerly Chambers), Alast, Goldy, Elsie May, Benjamin and Peter Adair, Fannie, Turner, Bessie, Grace, Gladys and Della Brown, Abbie, Arthur, Minnie and Abbie Ross and Abbie Haynes, as Cherokee Freedmen.

-2-

You are hereby advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the principal applicants. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Encl. B-60

(SIGNED) *Tams Bixby*
Chairman.

COPY.

Cherokee Freedmen
D-451.

Muskogee, Indian Territory, January 7, 1905.

Benjamin Adair,

Hudson, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, the application for the enrollment of yourself, and granting, among others, the application for the enrollment of your wife, Lizzie Adair, and your minor children, Isaac, Ollie, George, Cleveland, and Aid Adair, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED) *Tams Bixby.*
Chairman.

Encl. 1-56.

Register.

COPY.

Cherokee Freedmen
D-451.

Muskogee, Indian Territory, January 7, 1905.

Benjamin Adair,

Hudson, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, the application for the enrollment of yourself, and granting, among others, the application for the enrollment of your wife, Lizzie Adair, and your minor children, Isaac, Ollie, George, Cleveland, and Aid Adair, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED), *Tame Bixby.*
Chairman.

Encl. L-56.

Register.

COPY.

Cherokee Freedmen
D-559 et al.

Muskogee, Indian Territory, January 7, 1905.

Edgar Smith,

Attorney for Mariah Ross et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting, among others, the applications for the enrollment of Mariah, Ella, George, Rose, Fred, Stella, and Moses Ross; Sarah Allen, Oscar Tucker, Rosanna Skaggs, Thomas Archer, Celia Thompson, Aleck, Goldy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Bessie, Gracie, Claudy, and Celia Brown; Abbie, Arthur, Minnie, and Abbie Rowe; and Abbie Mayhew, and granting, among others, the applications for the enrollment of Rachel Ross, Louisa Barney, Lela, Frank, Jesse, Ada, George, and Bessie Whitmire; Lizzie, Isaac, Ollie, George, Cleveland, and Aid Adair; and Ella Bryant, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the

COPY

Interior for his review and decision. The action of the Secretary
will be made known to you as soon as the Commission is informed of
the same.

Respectfully,

Enc. 1-65.

SIGNED

Tamie Dixby
Commissioner

COPY.

Cherokee Freedmen
D-530 et al.

Muskogee, Indian Territory, January 7, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted record of proceedings had in the consolidated case of Jacob Ross et al., including the Commission's decision dated December 16, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting the applications for the enrollment of Mariah, Ella, George, Ross, Fred, Stella, Moses, Willie, Ross, Anna, and Lee Etta Ross; Sarah Allen, Oscar Tucker, Rebecca Shaggs, Thomas and Eli Archer; Golia Thompson, Alcock, Giddy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Bessie, Gracie, Glendy, and Golia Brown; Abbie, Arthur, Minnie, and Abbie Rowe; and Abbie Mayhew, and granting the applications for the enrollment of Rachel Ross, Louisa Barney, Lela, Frank, James, Ann, George, Beatie, Austin, Sara, Minnie, Josephine, Arthur, and Nelson Whitacre; Ella Bryant, and Linnie, Emma, Gills, George, Cleveland, and Aid Adair, as Cherokee Freedmen.

Respectfully,

(SIGNED) *Tams Bixby.*
Chairman.

Encl. 1-57.

Through the
Commissioner of Indian Affairs.

LAND:
2223-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

April 1, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated January 7, 1903, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Maria Ross for herself, her husband, Jacob Ross and her daughter, Ella Ross; by George Ross for himself, his wife, Rose Ross and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself; by Willie Ross for himself, his wife, Rosa and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself; by Eli Archer for himself; by Gelia Chambers (now Thompson) for herself, her minor children, Aleck, Goldy, and Elsie May Adair, and her minor grandchild, Lela Whitacre; by Josie Brown for herself and her minor children, Gracie, Claudy and Gelia Brown; by Benjamin Adair for himself, his wife, Lizzie Adair, and their minor children, Isaac, Ollie, George, Cleveland and Aid Adair; by Abbie Ross for herself and her minor children, Arthur, Minnie and Abbie Ross; by Peter Adair for himself; by

Frank Whitmire for himself and his minor children, Jesse, Ada, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Mineola, Josephine and Arthur Whitmire; by Nelson Whitmire for himself, and by Abbie Mayhew for herself.

December 16, 1904, the Commission decided favorably to Rachel Ross, Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair; Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Mineola, Josephine, Arthur and Nelson Whitmire; Ella Whitmire Bryant and Louisa Burney and adversely to all the other applicants.

The record shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the beginning of the war of the rebellion and were taken out of the Cherokee Nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to the Nation on or before February 11, 1867, but that Frank Whitmire did return prior to said date.

It is also shown that Ella, George, Moses, Willie, Fred, Stella, Emma and Lee Etta Ross and Rosanna Skaggs, Sarah Allen and Oscar Tucker are the children and grand children of Jacob and Maria Ross born since 1866, and possess no rights to enrollment except as their descendants; that Louisa Burney was born subse-

quent to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll; that Rosa Ross, the wife of George Ross was born since 1866 and claims right to enrollment through her father, one Louis Gibson, whose application has been denied and the adverse decision affirmed by the Department November 19, 1903 (I.T.D. 6186, 8060-1903); that Eli Archer and Rosa Ross, wife of Willie Ross were born since 1866, and are the descendants of, and claim right to enrollment through Thomas Archer and his wife Delsie Archer, who returned to the Cherokee Nation with her husband subsequent to February 11, 1867; that Rachel Ross wife of Moses Ross, Jesse, Ada, George, Bessie, Austin, Nelsen, Cora, Mineola, Josephine, Arthur and Lela Whitmire, Ella Bryant, Lissie, Isaac, Ollie, George, Cleveland and Aid Adair are the children and grand children of Frank Whitmire, born since 1866, and claim right to enrollment through her.

It does not appear that any of the applicants is identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision is recommended.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

M.K.E. (W)

S.P.

WASHINGTON.

H. T. D. 8297

September 7, 1905.

The Honorable

The Secretary of the Interior,
Washington, D. C.

Sir:

Please find herewith motions for the reconsideration and reviewing of the cases of the Cherokee Freedmen applicants for enrollment as Cherokee citizens whose names are contained in the enclosed schedule.

In accordance with the opinion of the Assistant Attorney General, dated March 22, 1904, it is believed that each one of these Freedmen on August 11, 1866, and February 11, 1867, were possessed of a legal domicile in the Cherokee Nation, and were, therefore, vested with Cherokee citizenship. The opinion referred to stated "the provision was intended to operate to the benefit of the persons of the classes described whose legal domicile was in the Cherokee Nation. X X X I am of opinion that physical return of the person within the time prescribed by the Treaty was not necessary in those cases where a domicile theretofore held in the Cherokee nation had not been abandoned or lost."

It is respectfully submitted that each one of the claimants herein had possessed a legal domicile in the Cherokee Nation which they had not lost prior to February 11, 1867, and

therefore had acquired Cherokee citizenship. If they have not lost or abandoned such citizenship since that time, they are now entitled to be enrolled. Such citizenship can only be lost by withdrawing from the Cherokee Nation Hine Animo Revertendi, or through the express provision of some Cherokee law by which such citizenship is forfeited. The Cherokee Constitution, Sec. 2, Art. 1, provides, "Whenever any citizen shall remove with his effects out of the limits of this Nation and becomes a citizen of any other Government, all his rights and privileges as a citizen of this Nation shall cease." None of the claimants herein have become citizens of any other Government. We have been unable to find any further provisions of the Cherokee laws by which these freedmen claimants would be deprived of such domicile and citizenship. In his opinion of May 9, 1908, the Assistant Attorney-General holds that "at the time of the emancipation of the slaves by the Cherokee Nation, February 1863, referred to by Art. IX of the Treaty (14 Stat. 801), the slave became a free man, and the right of choice of his domicile arose to him." This opinion further holds that the same conditions apply to these Freedmen as to native Cherokee citizens in the loss or abandonment of such citizenship. Therefore, these petitions are filed for the purpose of securing for each of these claimants a reconsideration by the Department of the evidence offered in support of their right to Cherokee citizenship based on their having acquired citizenship under the Treaty of 1866 through legal domicile in

the Nation and they have never lost or forfeited such citizenship by removing from the Nation quia quibus revertendi or becoming citizens of any other Government.

Very respectfully,

McGowan, Servey & Nelson.

I.T.D.
6297 and 6337 to
6957 inclusive.
1906.

DEPARTMENT OF THE INTERIOR,

JNW

Office of the Assistant Attorney-General.

Washington.

January 10, 1906.

The Secretary of the Interior,

Sir:

I received by reference of September 20, 1905, motions "for review of decision," denying applications for enrollment as Cherokee freedmen. The numeral memorandum at head of the reference (copied at head hereof) indicates that the motions involve seven hundred and twenty-two cases, though the motions referred to me number but three hundred and eleven. The letter of reference, among other things, states:

In but few of the motions is any reference made to the decision in the case, if any, made by the Department, and the Department has found in such papers, as a means of identification of the case, with few exceptions, only the names of the applicants and the case number of the Commission to the Five Civilized Tribes. It therefore has not undertaken to determine what decisions it has rendered, affecting parties with names given in the schedule and motions, nor to procure from the Indian Office the records in such cases. In a number of instances the cases are awaiting action in the Department, no decision ever having been rendered.

The Department, as it understands opinions of your office, has always held that persons of African descent, mentioned in article 9 of the treaty of 1866 (14 Stat., 799-801), then absent from the Cherokee nation, could not be recognized as citizens of the nation unless they returned to reside in the nation within the time specified in the treaty, or are able to show that the failure to so return was owing to circumstances beyond their control

In order that the question of law, somewhat irregularly again raised (see your opinion of July 26, 1905), may be more definitely settled, if possible, by an opinion by you, all the papers filed by said attorneys are submitted for your information, and for such opinion. It is not expected, of course, that you should pass upon each case or any particular case. The Department will dispose of the motions under such opinion as you may render, if approved.

The motions seem to fall within two general classes: (1) Wherein a decision adverse to the applicant has been made by the Department (I.T.D., 839-1905, Ross et al). (2) Wherein the Department has made no decision, and the case is yet pending on the report of the Commission to the Five Civilized Tribes adverse to the applicant (I.T.D., 8603-1905, George Ions et al). In neither class is it sought to reopen the case for taking further evidence, but the applicants seem content to rest on the proof as made before the Commission. The motions are therefore not for hearing, or for opportunity to offer further proof.

The motions of the second class mentioned above, based on records not yet passed upon by the Secretary of the Interior, are in form addressed to the Secretary for shaping of his action in review of the records transmitted by the Commission, and do not seek a remand of the records to the Commission for its review of its own action. They ask the Secretary to overrule and reverse the action of the Commission and to enroll the applicant. A motion of this character and for this relief is not properly one for review, but is properly an exception or objection to the decision of the Commission, challenging the decision for alleged errors of fact or law and seeking its reversal by the supervisory tribunal upon the facts shown in the record.

Motions of this class call for no present action by the Department separate from consideration of the case upon its merits. Such motion (exception) is to be considered at the time that the case is taken up on its merits, and decision of the case upon the merits disposes of the motion, the only effect of which is to direct the reviewing authority to its consideration.

claimed to have been made by the tribunal of first instance.

The motions of the first-mentioned class call for a re-examination of the record in a case decided, and are properly motions for review, asking the Department, which has rendered a decision in the case, to review the record and correct its own decision because of errors alleged.

Upon reconsideration and re-examination of article 9 of the treaty of July 18, 1866, I have no doubt that the words "are now residents therein or who may return within six months" have reference to the legal domicile of the persons referred to and not to their actual or temporary place of abode. My reasons for such construction have been given in my opinions of March 22, 1904 (I.T.D. 641-1904); April 16, 1904, Charles Foreman (I.T.D. 1240-1904); May 9, 1905, Burrell Daniels (I.T.D. 1706-1905; October 5, 1905, Jessie Alberty (I.T.D. 1704-1905), and probably in other cases. The three latter opinions applied to concrete facts involving the question of legal domicile at a place other than actual presence, but can not be said to solve every case that may arise.

The question of legal domicile is always a mixed question of law and fact to be determined in each case as the facts and legal conclusions therefrom may warrant. No general rule can be laid down applicable to every case. It is in general the legal presumption that the legal domicile of a person free to choose his place of abode is at the place where is his actual abode, with no present intent at a definite time or upon the happening of a definite event, to betake himself to some other certain place with intent there to remain. It is also in general the legal presumption that the legal domicile of a minor is at the place of legal domicile of the parent or person having

right to control the minor, if such parent, or person standing in that place is himself free to choose his own place of abode.

These presumptions may be rebutted, as indicated in my opinions in cases of Charles Foreman and Burrell Daniels. As above remarked, the circumstances therein existing are not exclusive of any others that may arise showing that legal domicile was elsewhere than at the place of actual residence, as noted in my opinion of October 5, 1905, in case of Harry Still (I.T.D. 7658-1904). Every case has to be determined upon the facts it presents, viewed and adjudged rationally from the standpoint of human experience and the conduct of the ordinary home, country, and comrade-loving human being, acting under the conditions proved to exist in the particular case under consideration.

Where the Commission has based its action upon the erroneous ground that the treaty requires proof of actual physical presence and fixed abode in the nation on or prior to February 11, 1867, such decisions are erroneous, and when the action comes before the Department for review, the evidence should be scrutinized and the case decided upon the proper ground of what it shows as to legal domicile. If the record shows that the facts may not have been fully presented and was tried upon an erroneous theory, and the applicant desires to adduce further proof and makes proper application therefor, a rehearing should be granted. If the department has already decided the case upon a similar erroneous ground, or without due consideration of the evidence tending to show legal domicile in the nation within the time fixed, it should review the case, and upon such review proceed further, as above indicated in cases not yet determined.

Very respectfully,

Frank L. Campbell,

Assistant Attorney General.

Approved: January 10, 1906.

R. A. Hitchcock,
Secretary.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

L.P.

LIE

I.T.D. 8297, 8337 to 8957,
inclusive (odd numbers)-1905.
440-1906.

January 15, 1906.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There is inclosed a copy of the opinion of the Assistant Attorney-General dated January 10, 1906, approved by the Department, relative to all motions in Cherokee freedman cases.

Press copy of a schedule of names of claimants in said cases, furnished by the Attorneys who filed the motions, and of the letter of said attorneys, together with a copy of departmental letter of even date to said attorneys, are also inclosed.

Advise the attorneys for the Cherokee nation hereof.

Respectfully,

(Signed) Theo Ryan

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

4 inclosures.

(COPY)

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Copy-

DEPARTMENT OF THE INTERIOR

WASHINGTON.

I. T. D. 440-1906

January 15, 1906.

Messrs. McGowan, Gerven & Mohun,

Glover Bldg. Washington, D. C.

Gentlemen:

Referring to your letter of September 7, 1905, filing motions in 311 Cherokee freedmen cases, there is inclosed a copy of an opinion of the Assistant Attorney-General of January 10, 1906, approved by the Department, in the matter.

The Department is not aware that it has rendered decisions in any of the cases in question upon "erroneous grounds" discussed by the Assistant Attorney-General, even if the Commission to the Five Civilized Tribes may have done so, or "without consideration of the evidence tending to show legal domicile in the nation." Each case, so far as the Department is aware, has been determined as the facts shown by the record and legal conclusions therefrom warranted.

The Department has always followed, in these cases, the law as construed by the Assistant Attorney-General. Reexamination of the existing records in such cases decided by the Department, would, therefore, doubtless result in the same conclusion heretofore reached.

The motions, with few exceptions, do not allege any

-4-

error as to the facts, and in a great majority of said motions it is not alleged that the record in the case does not show that the facts may not have been fully presented, or that the case was tried upon an erroneous theory.

In harmony with said opinion, you are advised that if you desire to file motions for rehearing in any of such cases, in order to allow the applicants an opportunity to adduce further proof, proper application should be made for that purpose. Further action will accordingly be suspended upon said motions for a reasonable time, to be fixed by the Department, upon application by you.

If in any of these cases it is not desired to file a motion for rehearing, it is requested that you so indicate to the Department.

Respectfully,

Thos. Ryan
First Assistant Secretary

1 inclosure.

(COPY)

D.C. 48532-1906.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

GRW
LLB

I.T.D. 3396, 8398, 8445,
8479, 8497, 8583,
8585, 8589, 8649,
8727, 8791, 8793,
8795-1905.

November 2, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 7, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for the enrollment of Jacob Ross et al. as Cherokee freedmen, including its decision of December 16, 1904, rejecting the applications of Jacob, Variah, Ella, George, Ross, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Etta Ross; Sarah Allen; Oscar Tucker; Rosanna Skaggs; Thomas and Eli Archer; Celia Thompson; Aleck, Goldy, Elsie May, Benjamin, and Peter Adair; Josie, Turner, Bessie, Gracie, Claudy, and Celia Brown; Abbie, Arthur, Minnie, and Abbie Rowe, and Abbie Vayhew; and granting the applications of Rachel Ross; Louisa Burney; Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Winella, Josephine, Arthur, and Nelson Whitmire; Ella Bryant, and Lissie, Isaac, Ollie, George, Cleveland, and Aid Adair.

Reporting April 1, 1905 (Land 2223), the Indian Office re-

commended that the Commission's decision be approved. A copy of its letter is inclosed.

September 7, 1905, motions for review were filed in the matter of the applications of Moses Ross, Abbie Rowe et al., Celia Thompson et al., Rose Seaggs, Ella Ross et al., George Ross et al., Jacob Ross et al., Abbie Mayhew, Benjamin Adair, Sarah Allen et al., Eli Archer et al., and Thomas Archer.

There appears to be no proper reason for granting said motions and they are hereby denied.

The Department concurs in the recommendation made, and the decision of the Commission is hereby affirmed.

The Indian Office will notify local attorneys of departmental action.

The papers in the case, including said motions for review, have been sent to the Indian Office for its files.

Respectfully,

E. A. Hitchcock

Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 14 to Ind. Of.

Cherokee Freedmen

D-539, et al.

Muskogee, Indian Territory, November 13, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed September 7, 1905, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. 8-1
LS

Commissioner.

Cherokee Freedmen

D-451.

Muskogee, Indian Territory, November 13, 1906.

Benjamin Adair,

Hudson, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, your application for the enrollment of yourself, and granting, among others, the application for the enrollment of your wife and children, as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of your case, filed by your attorneys September 7, 1905, denied.

You are further advised that you will not be permitted to make allotment selections for your wife and children until their names have been placed upon a schedule of Cherokee freedmen and approved by the Secretary of the Interior, of which action you will be duly notified.

Respectfully,

LS

Commissioner.

Cherokee Freedmen

D-539, et al.

Muskogee, Indian Territory, November 13, 1906.

Blue & Bulger,

Attorneys for Jacob Ross, et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed by you September 7, 1905, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. 3-4
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Commissioner.

Cher. Fr. R 895

Cher. Fr. R 895

Trans. from Cher. Fr. D 452

Cher. Fr. R 895

Cher. Fr. R 895

Trans. from Cher. Fr. D 452

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DEPARTMENT OF
COMMISSION TO THE FIVE COUNTRIES
FILED
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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHICKASAW, I.T., MAY 31st, 1901.

In the matter of the application of Abbie Rowe for the enrollment of herself and three children as Cherokee Freedmen; said Rowe being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Abbie Rowe.
Q How old are you, Abbie? A 27.
Q What is your post office? A Wimer.
Q What district do you live in? A Coowasee.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Eddie Rowe.
Q Is he a citizen? A Claim to be.
Q Who do you want to enroll besides yourself? A Myself and three children.
Q Give me the names of your children? (Hands paper to COM'R.)
Q Is the oldest one named Arthur? A Yes, sir.
Q He is eleven years old is he? A Will be the 8th day of this coming November.
Q What is the next one, Minerva? A Minnie, she will be nine years old the 28th of next November.
Q The next one is? A Abbie.
Q She is seven years old? A Yes, sir.
Q What was your mother's name? A Celia Adair.
Q What is her name now? A Celia Chambers.
Q Where were you born? A On Big Creek.
Q Have you always lived in the Cherokee Nation? A Yes, sir.

BY MR. SMITH, of Firm of Mellette & Smith, Attorneys for Applicants:

- Q How old did you say you were? A 27.
Q When were you married to your husband? A The 17th of November.
Q How long ago? A Well he married 12 years the 17th of this coming November.
Q All of these children born since you and he have been married?
A Yes, sir.
Q You are living together now? A No, sir.
Q Have you always lived in the Cherokee Nation? A Yes, sir.
Q The Celia Chambers who applied here this afternoon for herself is your mother? A Yes, sir, she is my mother.
Q Are you on the Kerns-Clifton roll? A Yes, sir.

BY COM'R NEEDLES:

- Q Are these three children you apply for at this time all alive and living with you? A Yes, sir.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon.

The Kern-Clifton roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:
Page 138, #3438, Abbie Rowe, Coowasee District.
Page 138, #3441, Minnie Adair, Coowasee District.
Page 138, #3439, Arthur Rowe, Coowasee District.
Page 138, #3444, Abbie Adair, Coowasee District.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 138, #2796, Abby Adair, Coowasee District.

- Q These children are named Rowe are they? A Yes, sir.

Abbie Rowe, et al.--2.

COM'R NEEDLES:--Abbie Rowe applies for the enrollment of herself and her three children, to-wit: Arthur, Minnie and Abbie Rowe. Upon examination of the roll of 1880 her name is not found thereon. She is duly identified upon the Kern-Clifton roll and Wallace roll. Her maiden name she avers was Adair she being a child of Celia Chambers formerly Adair. She is now married to Eddie Rowe. Her three children, enumerated herein, are duly identified upon the Kern-Clifton roll. They make satisfactory proof as to residence. In this connection the testimony in the application of Celia Chambers for the enrollment of herself as a Cherokee Freedman who was enrolled on D. card #446, will be made a part of the record in this case, and a copy of the same will be filed herewith. Consequently Abbie Rowe and her children as enumerated herein, will be placed upon a doubtful card, awaiting further consideration, for the fact that her name does not appear upon the authenticated roll of 1880, and for the further fact that their citizenship is protested by the Cherokee Nation.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 4th day of June, 1901.

[Signature]
Commissioner.

File with F. D. 452, Abbie Rowe.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHULSEA, I. T., MAY 31st, 1901.

In the matter of the application of Celia Chambers for the enrollment of herself, husband, three children and one grandchild, as Cherokee Freedmen; said Chambers being sworn and examined by Commissioner T. B. Needles, testified as follows:

Appearances:

Mellette & Smith, attorneys for applicants.
L. B. Bell, Cherokee Representative.

Q What is your name? A Celia Chambers.
Q How old are you? A I count myself near 58 years old.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A Seven children, three of them.
Q Three of them is of age? A Yes sir.
Q Four then you have got? A Yes sir.
Q Are you married? A Yes sir, Charley Chambers is my husband.
Q Is he a citizen? A Yes sir, he is on the 1880 roll.
Q Has he been enrolled? A No sir, he ain't been enrolled yet.
Q Don't you want to enroll him and yourself and family all together?
A Yes, I guess so.
Q Are you on the 1880 roll? A I am on the Wallace and Kern and Clifton.
Q Not on the roll of 1880? A No sir.
Q What are the names of your children? A The single boy is named Aleck Adair, 20.
Q What is the name of the next child? A Goldy Adair, 18.
Q What is the name of the next one? A Elsie May Adair, 16.
Q How old is Elsie May? A She is 16.
Q Well now, the next child? A That is all there is three; there is four of age; Elsie May has a child, I have a grandchild.
Q What is the name of the child? A Lela Whitmire.
Q How old is Lela Whitmire? A Nine months.
Q What is the name of the father of Lela Whitmire?
A William Whitmire.
Q What is the mother of Lela? A Elsie May.
Q Is she married to Whitmire? A No sir, he married another girl not long ago.
Q They were never married? A No sir.
Q Why isn't your name on the roll of 1880? A The Indians didn't put me there.

BY MR. SMITH, Attorney for Applicants:

Q How old did you say you were? A I count myself near about 58, I don't really know..
Q Now, who was your mother? A My mother is dead, I never did see her.
Q Were you a slave yourself? A Yes sir.
Q Who was your owner? A Jeff Parks.
Q Was he a Cherokee Indian? A Yes sir.
Q Where did he live? A Lived on Grand river, east of Grand river, in, I have forgot what district.
Q Was it in the Cherokee Nation? A Yes sir.
Q Where were you when the Civil War commenced? A I was right there at home.

Q Did you go out of the Nation during the war?
A Yes sir, I went out with the soldiers.
Q Where did you go to during the war? A I was cook for 'em; stayed with 'em and cooked for the federals.
Q Well, where did you go to, if you know? A After I went home?
Q No, when you were out of the Nation where were you?
A Why, I went up to Fort Scott.
Q What time did you come back to the Cherokee Nation after the war?
A I come back in the fall of '66.
Q Did you have any children at that time, at the time you came back here in 1866? A I was married out in Kansas and stayed there one year and come back and didn't have any children.
Q Where were your children born? A On Big Creek.
Q In the Cherokee Nation? A Yes sir.
Q Who were they? Give their names? A Ben Adair, Josie Adair, Abbie Adair, Peter, Goldy and Elsie May Adair, there was seven of them.
Q Were they all born in the Cherokee Nation? A Yes sir, their father is dead.
Q Where do you live now? A Live up on Gib Creek.
Q How long have you lived there? A I have lived there ever since I have been here.
Q Have you lived in the Cherokee Nation ever since you came back here in 1866? A Yes sir; never went to Kansas to do a days work in my life.
Q Who is your husband at this time? Charley Chambers.
Q Where is your husband, Adair? A He is dead.
Q When did he die? A He has been dead about 19 years I guess.
Q Are all of your daughters married? A Yes sir, all married ones sitting bok there.
Q What are their names? A Josie Brown.
Q What is the other's ones names? A Abbie Rowe, and the boy is named Ben Adair.
Q Are you on the Kerns-Clifton roll? A Yes sir, I am on there.

The 1880 authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's names not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and applicants name found thereon, page 138, #3432, Celia Chambers, Cooweescoowee District.

BY COM'R NEEDLES:

Q What was your name before you married Adair?
A My name was Celia Parks.
Q Was Adair your first husband? A Yes sir, Parks; that is my own-ers name.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicants name found thereon, page 134, #2793 Celia Parks, Cooweescoowee District.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and names of applicants children found thereon as follows:

Page 139 #5441, Aleck Adair, Cooweescoowee District.
Page 139 #5442, Goldy Adair, Cooweescoowee District.
Page 139 #3443, Elsie Adair, Cooweescoowee District.

BY MR. SMITH:

Q There are these three unmarried children, Aleck, Goldy and Elsie Adair, at this time? A Right at home with me.

Q Have they always lived with you? A Yes sir, they have always lived with me.

Q Are these the only three of your children that are under 21 years of age? A Yes sir.

Q Are the others all over 21 years of age? A Yes sir.

L. B. BELL, Cherokee Representative

Q Where did you return to when you came back in '66, did you say?

A Up on Big Creek.

Q Who was with you? A My husband was with me and I come with the Webber Attachment.

Q Berry Ward? A Berry Ward that's dead.

Q Dave Mayes? A No sir, Berry Ward come and George Adair, my husband.

Q Sam Webber attachment was it? A Yes sir, and my husband what's dead come along.

Q Well, was Berry Ward along? A They was just so many I just don't really know and they was all strangers to me.

Q Did Dave Mayes come along? A Yes sir, I think he did, I just really don't know.

Q Johnson Webber? A Yes sir, Johnson Webber, Yes sir.

Q Did they all bring their families? A Johnson Webber never had any family only a woman and two little girls.

Q You don't know whether he brought his family or not?

A No sir, I don't, to tell the truth I don't.

Q Well did Dave Mayes bring his family? A Davie Mayes, yes sir, I think he did.

Q You must have been 20 years old or over? A I was'nt nothing but a girl but I was married, I married at 14 years old, and of course it has been so long back and I have told this story

Q I will give you all the advantage of that; you start in when you were 20 years of age? A I can't read and write.

Q You were a grown woman and married when you come back? A Yes sir.

Q You can remember something of these families that come back with you? A I think Dave Mayes come back.

Q Now, of all them families you can't recollect any one distinctly? A Yes sir, I can remember some.

Q Tell me some that come with you? A Well there was Daniel Rowe for one.

Q Where did you stop, whereabouts on Big Creek did you stop?

A I stopped, well about ten miles from where I ~~am~~ live now, down the creek.

Q You moved up the creek from where you stopped? A Yes sir.

Q Well down there in that neighborhood anywheres around, was any people living? A No sir.

Q Not a soul? A No sir.

Q Well, didn't you appear before this Clifton-Kerns Commission?

A Yes sir.

Q You didn't swear that there were some Delewares living down there did you, by the name of Fall leaf? A Yes sir, but I made a mistake about that.

Q Well what was the mistake? A I just made a mistake; I didn't swear it the way I went to tell it and I caught it that I was'nt telling a straight tale.

Q You are telling a straight tale now? A Yes sir.

Q Who was your mother? A I don't know.

Q Who was your father? A My father is dead, I never saw him.

Q Who did you belong to? A Jeff Parks; first place I belonged to Stover and I went from Stover to Jeff Parks.

Q How old were you when Jeff Parks bought you? A I don't know.

Q You were not large enough to remember? A No sir.

Q What time of the year did you come to Big Creek? A In the fall of '66.

Q Who was the captain of the Crowd that come down with you?

A Well sir, I just don't know, just what is just what I don't know, you asked me for the truth and I am going to tell you the truth, I just don't know.

Q Was Aaron Webber with you? A I don't know whether Aaron Webber, but this little one out here.

Q You know now he was along with you? A Yes, and the old man Webber what's dead.

Q What was his name? A Nanemd Sam Webber.

Q What did you say about Aaron Webber coming? A Little Aaron come and I don't know nary other one, there was one was a preacher.

BY MR. SMITH:

Q Did you state who this little grandchild of yours, whose child it is? A It is Elsie May's, my baby girl.

BY COM'R NEEDLES:

Q What was your first husband's name? A George Adair.

Q Is he living? A No sir, he is dead, he is the father of all these children.

Q Your present husband is named Charlie Chambers? A Yes sir.

SAM WEBBER, being sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Sam Webber.

Q Where do you live? A I live two miles west of Nowata, Coowee-Scowee District.

Q How long have you lived there? A I moved there from Big Creek about two years ago.

Q How long have you lived in the Cherokee Nation? A Well I was born and raised here, I went out and came back after the war.

Q Are you a Freedman? A Yes sir.

Q Are you on the 1880 roll? A Yes sir.

Q To whom did you belong? A Akoy Webber.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q When did you come back? A I come back in July 1886, and went up here on Big Creek along in August.

Q Was that the first time you came back to the Cherokee Nation before that? A No sir, I come down before that.

Q Do you know this applicant, Gellie Chambers? A Yes sir, I known her ever since she come to Big Creek, a short time after I got acquainted with her.

Q Do you know of your own knowledge to whom she belonged? A No sir, I could not tell you that.

Q You say you have known her ever since she came here, when was that? A That was in the fall of '86.

Q Where did you first get acquainted with her? A In Kansas.

Q Do you know when she came back to the Cherokee Nation after the war? A She come back in the fall of '86.

Q How do you know that? A I was in the crowd.

Q Did she come back in the same crowd? A Yes sir.

Q Where did she go to? A She come to Big Creek.

Q In the Cherokee Nation? A Yes sir.

Q Well, do you know where she has been living since? A She lived there on Big Creek ten miles above where she use to live.

Q Have you seen her from time to time since that time? A Yes sir.

Q Are you acquainted with her family? A Not enough to know them; I know them enough to know them when I see them, I can't call their names, I know the boys when I see them.

Q Where did you first see them in Kansas? A I nLinn County, near Mound City.

Q About how long before you brought her back here? A I don't know

exactly, two or three, two years I guess; I put it something like that; I don't know exactly, but I see her there, she was living with an old gentleman by the name of George Adair.

Q Do you know when he died? A Not exactly, he died here on Big Creek though, but I don't know exactly when he did die.

Q When did he come back? A He come back with us when we come in the fall.

BY MR. BELL:

Q When did you come down first, Webber? A When I first come to the Nation?

Q Yes? A In the fall of '65, and went to Gibson.

Q How long did you stay there then? A To Gibson?

Q Yes, how long did you stay in the Territory? A Oh, stayed in the country until March, '66, wintered here, hunting.

Q Then what become of you, did you go back to Kansas?

A Went back to Kansas.

Q Whereabouts to? A Linn County, near Mound City, six miles of Mound City.

Q Then when did you return here? A We come down in the latter part of July and built on Big Creek.

Q You come back in July, '66? A Last week in July.

Q Did you come with that crowd of prospectors that come and built some houses and went back to Kansas? A Yes sir.

Q How long were you here building those houses? A Wasn't here over three weeks as near as I can remember.

Q Then you returned to Kansas after that? A Yes sir.

Q When did you get back to Kansas? Up there some time in the latter part of August.

Q And then when did you fix to move? A Just as soon as we could sell out our crops and come.

Q What time was that? A Along in the fall.

Q Along in the fall covers a hundred days nearly? A Not exactly, a hundred days, we was'n't longer than we could sell out.

Q Were you there in October or November? A I won't be certain, but we come before cold weather.

Q You didn't come later than November? A Not later than that, I knew we was not gone long, we was in a hurry to get back; we brought plows down here and was in a hurry to get back.

Q Did you get back down as early as October? A I won't say, I ain't certain and won't say, we was back here before cold weather that fall. We went up there and russed around terrible to get back because we wanted to get back here and get fixed up before cold weather.

Q Was there any settlers on Big Creek when you come? A No sir, when we was hunting claims we run up against John Riley and they said we was here three days, and run up against John Coker, and he said, we are just here.

Q Where was that? A Down here on Verdigris.

BY CONR. NEEDLES:

Q How old are you? A About 58.

Q What is your post-office? A Nowata, now.

Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.

Q On the 1880 roll? A Yes sir.

BY MR. SMITH:

Q Who else was in this crowd you speak of that this applicant was in? A Last crowd, I could not name all the people that come.

Q I am talking about the crowd that this woman, Delia Chambers, was in, was any of her people besides herself in the crowd?

A Her husband was along, and several others.

- Q Do you know Abbie Ward, her sister? A She don't go by Ward now does she?
- Q No, what is her name now, Abbie Maynew? A I am acquainted with her; she went by some other name then, Abbie Ball.
- Q Do you know her? A Yes sir.
- Q How long have you known her? A About since I knowed this other one, about the time I got acquainted with this other one.
- Q When did you first see her in the Cherokee Nation after the war? A I saw her in the fall of '66.
- Q Well, where did you see her in the Cherokee Nation? A On Big Creek.
- Q How did she get there? A She come with these other folks, we all come together.
- Q With what other folks, her sister? A Her sister.

BY MR. BELL:

- Q Do you know anything of her birth or parentage? A No sir.
- Q Do you know anything of this Celia Chamber's birth or parentage? A No sir.
- Q You don't know whether they were Cherokee Freedmen or not? A Only what they say.
- Q Well I am asking you what you know? A I don't know.

BY COM'R. NEEDLES:

- Q She was a freed woman in '66, was'nt she? A Yes sir.

BY MR. SMITH:

- Q Do you know where she lives now? A Up on Big Creek.
- Q How long has she lived there? A Ever since '66.

JIM ALBERTY, being first duly sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

- Q State your name? A Jim Alberty.
- Q How old are you? A 70 years old.
- Q Where do you live? A I live in Saline District, eight miles east of Chouteau.
- Q How long have you lived in the Cherokee Nation? A I am 70 years old, I have lived there that long.
- Q Have you lived here all your life? A Yes sir.
- Q Do you know this applicant, Celia Chamber? A Yes sir.
- Q How long have you known her? A Known her from the time she was a girl up until now.
- Q Do you know who her owner was? A I know who her first owner was; her first owner was Stover.
- Q What Stover was that? A John Stover, lives this side of Mayesville.
- Q Where did you first see her after the war was over? A Right on the east prong of Big Creek in 1866.
- Q In the Cherokee Nation? A Yes sir.
- Q Do you know her, Abbie Ball, or Maynew? A I have saw her, I have no acquaintance with her.
- Q Do you know anything about when she came back to the Cherokee Nation? A No, I could not tell that.
- Q You don't know? A No sir.

BY MR. BELL:

- Q Were you living on Big Creek, Jim, at the time you saw this Celia Chamber? A Yes sir, that is, Toke Martin was on my place there.
- Q About what time of 1866 was it? A It was in the fall of '66 when I saw her.
- Q Along in September or October? A I can't give you any date.

Q It was either in September, October, November, or December?
A It was along in there somewhere, I can't give you any date.

Q You say Tobe Martin was on your place? A Yes sir.

Q What Tobe Martin was that? A Tobe Martin that use to belong to Jim Vann, he is out here now.

Q When did you make that place? A I made it before, about the time them folks first begin to come in on Big Creek, Tusky Brown owns it now.

Q You made it sometime about three months before these folks come back? A I don't know, I had it a year or two before you come down to the Salt lake and bought sale there.

Q You made it in the year '65, then did you? A No, in '66.

Q What time, in the Spring? A No, in the Fall.

Q Was you living up there at the time you saw this woman?
A No sir; Daniel Hicks had bought that old Marcum place and I had Tobe up there.

Q You said you saw this woman up on Big Creek there in '66?
A I was building my house and they was not.

Q You said Tobe was living up there? A You said where I was when you saw them; I was up there and she come there, and after that I put Tobe there and they come down before.

Q You put Tobe in the house after you saw this woman?
A Yes sir, that is the way it is.

Q That's better? A That is the way it is.

Q Who was John Stover you say that was the first owner of this applicant? A He was a white man, married a Cherokee.

Q Where did he live when you knew him? A He lived right this side of where you use to live, you know this side of Mrs. Buffington, between here and there.

Q That was up by Beaty's prairie? A Yes sir.

Q Now whereabouts on Beaty's prairie did he live? A Oh, now you have gone to where I can't go; I told you this side of Mayesville, I can't tell you a spot in any country; it was this side of Mayesville this side of Jack Bell's where you lived.

Q Now, a house, lots and fields, is a good deal bigger than a girl?
A Yes sir.

Q You recollect all about the girl and don't recollect the place?
A I cared about the girl and I didn't care about the place.

Q How large was she when you first saw her? A She was a good bit of a girl.

Q About how old was she? A I don't know; I don't know how old I was myself and I can't give you any age.

Q Down about ten years? A I don't know.

Q About how big? A I don't know.

Q You don't know how high she was? A She was a girl about as high as that. (Indicating.)

Q Did you ever see her more than once? A I have seen her lots of times.

Q How long did that time go on? A Every time I would go up there to ride mile heats, Jim Kell, s. you know where that is better than I do.

Q What was her mother's name? A I don't know; I don't really know whether I have saw her mother or not.

Q You were never up there and seen her after that race track was abolished and quit running? A No sir, Of course I never seen her after that.

Q Do you know what become of her after you left there?
A No sir, I don't.

Q You don't know whether she was sold or otherwise?
A I don't know anything about it.

BY MR. SMITH:

Q What you have just been stating, was that before the war or after

the war? A When she was a girl?

Q Yes? A That was before the war, I knew her then and know her to be.

BY MR. BELL:

Q That racing quit there about '50, didn't it? A I don't know a thing about that; you want to fetch me to something I don't know anything about.

Q All you know you went there to ride races? A Yes sir, I went there to ride races.

ABBIE MAYHEW, being sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Abbie Mayhew.

Q Do you know Celia Chambers? A Yes sir.

Q Are you related to her? A Yes sir.

Q What kin are you to her? A Half sister.

Q How old are you? A I just don't really know my age for certain.

Q Which is the older, you or Celia? A I am the oldest, she don't know anything about her mother.

Q Are you married or single? A I am married.

Q Were you a slave? A Yes sir.

Q Whom did you belong to? A I first belonged to Mr. Hastings' grandmother.

Q What was her name? A Her name was Charlotte Stover.

Q Whom did you belong to after that? A They sold me to Mose Ward.

Q Whom did you belong to when the war broke out? A Mose Ward.

Q Who was he? A Cherokee.

Q Where did he live? A Up there about Maysville, place called Beaty's prairie.

Q Lived in the Cherokee Nation, on Beaty's prairie? A Yes sir.

Q Did you go out of the Cherokee Nation during the war? A Yes sir.

Q Where did you go to? A I went on up to Fort Scott.

Q When did you come back to the Cherokee Nation after the war?

A I came back in the fall of '66.

Q Who did you come back with? A Sam Webber attachment of them.

Q Did you come back at the same time your sister came back? A Yes sir.

Q Where do you live now? A I live on Big Creek.

Q In the Cherokee Nation? A Yes sir.

Q How long have you lived there? A I have been living there ever since.

Q Ever since you came back in '66? A Yes sir.

Q Well, to whom did your sister Celia belong? A John Stover, same person I did, I and her belonged to the same people.

Q Do you know whether John Stover sold her before the war or not?

A Yes. sold her before the war when she was a little bit of a girl sold her to Ann Parks.

Q Who was Ann Parks? A Johnson Thompson's sister.

Q Was she married? A Yes sir.

Q What was her husband's name? A John Parks.

COMMISSIONER NEEDLES: Celia Chambers applies for the enrollment of herself and three children, to-wit: Aleck Adair, Geldy Adair and Elsie M. Adair, and for her grandchild, Lola Whitmire, whom she avers is the child of her daughter, Elsie May Adair. Her name is not found upon the authenticated roll of 1880 or the census roll of 1896; she is duly identified upon the Kerns-Clifton roll as Celia Chambers, and upon the Wallace pay roll as Celia Parks, that having been her maiden name. She

avens that she was married to one Adair, who is the father of these children for whom she applies, and the names of said children, Aleck, Goldy and Elsie M. Adair, are identified upon the Kerns-Clifton pay roll. The name of her grandchild, Lela, is not found upon any of the rolls, having been born after the rolls were compiled. He is duly identified, but for the reason that her name is not found upon the authenticated roll of 1880, and for the further reason that their citizenship is contested by the Cherokee Nation, Celia Chambers, her three children and her grandchild, as herein enumerated, will be listed for enrollment as Cherokee Freedmen on a doubtful card, awaiting further consideration of the Commission. It will be necessary for her to file with this Commission satisfactory proof of the birth of said Lela Whitmire, before the enrollment of said Lela Whitmire will be complete. She will be duly notified when the decision of the Commission is arrived at.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this 3rd, day of June, 1901.

(signed) T. B. Needles
Commissioner.

File with CFD-446, Celia Chambers, et al.

Supl. CFD-#447.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., OCTOBER 29th, 1901.

In the matter of the application of Abbie Mayhew for enrollment as a Cherokee Freedman; the following supplemental testimony is offered on part of the Cherokee Nation:

Appearances:

Mellette & Smith, attorneys for applicant;
Mr. Davenport, of counsel for Cherokee Nation.

A. R. WAYNE, being duly sworn and examined by Commissioner Mandiam Breckinridge, testified as follows on part of the Cherokee Nation:

- Q Give me your full name? A A. R. Wayne.
Q How old are you? A I am 58 years old.
Q What is your post-office? A Mound City, Linn County, Kansas.
Q Are you a citizen of the State of Kansas? A Yes sir.

MR. DAVENPORT:

- Q How long have you lived in and near Mound City, Kansas, Mr. Wayne?
A I have lived there continuously except a little over three years I was in the war, since 1855.
Q Did you know a colored family up there by the name of Ball?

File with C. P. D- 482 Abbie Rowe et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in the
matter of the application of Celia Chambers, et al., for enrollment
as Cherokee ~~and~~ Freedmen, D-446:

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I.T., attorneys
for the applicants;
W.W.H. J.S. Davenport, of attorneys for Cherokee Nation.

W.H. NOBLE, being sworn and examined testified as follows:

BY MR. DAVENPORT:

- Q What is your name? A W. H. Noble.
- Q Where do you live? A On Big Creek.
- Q How long have you lived on Big Creek? A About thirty odd years.
- Q Where is Big Creek? A It is in Coowescoowee District.
- Q About the center of Coowescoowee District.
- Q Running to the Kansas line from the Cherokee Nation? A Yes sir.
- Q You know Celia Chambers? A Yes sir.
- Q How long have you known her? A I have known her as Mrs. Adair, George Adair's wife, until the last four or five years, when she married Chambers, right there in my neighborhood, right under me.
- Q You say she was living with Adair? A Yes sir, George Adair.
- Q When did she first come into your neighborhood there on Big Creek? A I think as well as I can recollect in the spring of 1870.
- Q Who did she come there with? A George Adair and George Adair's wife.
- Q You had been living in that country since when on Big Creek? A Ever since about '64, '5 I guess, '66, probably. '66 when I moved over on to Big Creek, about '68.
- Q How far is she living now from where she first came in that country and settled? A Right in the first place where she settled; right on the same farm, where she settled in '70 or '71, lived on the same place yet.
- BY MR. MELLETTE:
- Q Mr. Noble, when did you locate on Big Creek? A I think it was in about '67, that I went there first.
- Q What time in '67? A I think I went there first along in the winter of '67 and then commenced improvements there in the spring of '67.
- Q Where did you go from when you went on Big Creek there? A From Cabin Creek.
- Q U. close to Chetopa, Kansas? A Yes sir.
- Q What Freedmen cases was it you testified in at Vinita? A I could not say now.
- Q Now Mr. Noble, you remember that you were brought in there at Vinita before this Commission as a witness in the Freedmen cases, and you testified that you were living up near Chetopa, Kansas, and in '67 on Cabin Creek, didn't you? A I was on Cabin in '67 and I was also on Big Creek in '67, all the same.
- Q What part of '67 did you go over on Big Creek? A I couldn't say at to that just what time, but sometime in the spring of the year, I went over there.
- Q Now didn't you testify in Eliza Gaines' case that you were living up near Kansas, Chetopa, Kansas, in the fall of '67? A I could not say as to that.
- Q Now you remember the case very distinctly didn't you? A I could not say for that, I was there on Big Cabin and I was also on Big Creek in '67 both; they are near about eight miles apart.
- Q You don't remember when you testified in the Eliza Gaines case

there what year the war closed, did you? A I think not, just at that time, but I could afterwards.

Q What? A I didn't at that time, but I could afterwards.

Q Now you are willing to swear positively that you moved to Big Creek in '67 are you? A Yes sir.

Q What time did you permanently locate on Big Creek in '67? A We went there in the spring and I moved my stuff there during the summer of '67.

Q Then you were not on Cabin near Chetopa, Kansas, in the fall of '67? A Why principally, yes.

Q You didn't live there? A I lived with my uncle, yes, at that time I was a youngman.

Q You didn't have any regular home at that time? A No sir, not then.

Q You don't know where Celia Chambers come from when you first saw her? A She was on Big Creek when I first saw her.

Q You don't know where she was before that, though? A No sir.

Q She might have been in that country so far as you know? A Not up in that section.

Q Did you see everybody up in that country? A In that year I was all over that country.

Q You don't pretend to swear that you saw everybody in that country do you? A No sir.

BY MR. MELLETT: I want the testimony of this witness in the Eliza Gaines case made part of the testimony in this case.

BY COMMISSIONER: The request of the attorney for the applicant will be complied with, and the testimony made part of the record.

This testimony will be filed and made part of the record in the following Cherokee Freedmen cases No. D 447, D 449 D 451 D 452 and D 560.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this February 28, 1902.

[Signature]

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Wash., D.C., May 21, 1902.

In the matter of the application of Abbie Rowe et al for
enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO P-482.

APPEARANCES:
Lewis G. Brown, representing Mellette & Smith, for applicants;
W. V. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation asks that a copy of the
testimony filed by the Cherokee Nation in Freedmen Cause No. 446
be filed with and made a part of the record in this case.

COMMISSIONER: The request of the Nation will be complied with and
the testimony filed.

Arthur C. Croninger, being first duly sworn, states that as
stenographer to the Commission to the Five Civilized Tribes he re-
ported in full the proceedings in the above case, and that the
foraging is a true and complete transcript of his stenographic
notes thereof.

Arthur C. Croninger.

Subscribed and sworn to before me this 21st day of May, 1902.

(Seal)

J. H. Reiter
Notary Public.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Hallett & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17208 filed in the Mariah Hayden case F D 493, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Abbie Rowe, D 452;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as in the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof or any or all of the record other than the decree already referred to.

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES,
CHEROKEE LAND OFFICE.
Tahlequah, I. T., August 17, 1905.

In the matter of the application for the enrollment of Abbie Rowe and children, Arthur, Minnie and Abbie Rowe, as Cherokee Freedmen. No. F. D. 452.

ABBIE ROSS, being duly sworn by Joe Chambers, a Notary Public, and examined on behalf of the Commissioner, testified as follows:----

- Q What is your name? A Abbie Ross now. It was Rowe.
Q How old are you? A I suppose I was 30 the first day of August.
Q What is your post-office? A Wimer.
Q Are you a Cherokee Freedman? A Yes sir.
Q You are on a doubtful? A Yes sir.
Q Have you minor children, Arthur, Minnie and Abbie Rowe?
A Yes sir.
Q Are they living? A Yes sir.
Q With whom do they live? A The two girls live with me, and the boy stays with his daddy, Eddie.
Q You and Eddie Rowe, the father of the children, have separated? A Yes sir.
Q When did you separate? A We have been parted about 7 or 8 years.
Q Did you get a divorce from him? A I didn't get no divorce, but he went to Leavenworth and was gone a year and that divorced me from him.
Q You and he have both married again since you separated?
A Yes sir.
Q What is the name of your husband? A John Ross.
Q Is he a citizen of the Cherokee Nation? A No sir.
Q When were you married? A Be two years the 10th of this coming October.
Q You were married October 10, 1903? A Yes sir.
Q Are you and he living together now? A Yes sir.
Q Has a guardian ever been appointed for your children?
A No sir.

Joe Chambers, being duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he correctly recorded the testimony in this case, and that the above and foregoing is a true and complete copy of his stenographic notes.

Subscribed and sworn to before
me this 19th day of August, 1905.

Joe Chambers

William C. Drew

Notary Public.

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Did you get acquainted with them? A I know all of the Ball's.

Q What was the families name you got acquainted with?

A Arthur Ball and Spence Ball.

Q Did Arthur Ball have a wife? A Claimed her as wife and I understood he was married.

Q Did you know what her name was? A Yes sir.

Q What was her name? A They called her Abbie Berry, that is what she called her name?

Q Do you know whether or not she lived up there before she and Arthur Ball went to living together? A Yes sir.

Q Who did she live with before she went to living with Arthur Ball.

A Yes sir, I first knew her she was living in the family of Anderson Turk.

Q Then did she afterwards live together with Arthur Ball as his wife?

A Yes sir.

Q When did you first get acquainted with Abbie Ball, or Berry, Mr. Wayne? A It was in '68.

Q Where was she living at that time? A About four miles and a quarter northwest of Mound City.

Q When did you get acquainted with Arthur Ball? A Well, it was a number of years before that, I could not tell you.

Q You had known Ball before you did Abbie? A Yes sir.

Q Well now then, when was the last time you know of your own knowledge they were living in that neighborhood or muntry there, what year? A Well I know they were living there in 1879.

Q Were you at their house, or Ball with you, or anything that makes you remember that? A Yes sir.

Q Well what was the circumstance that makes you remember? A There was quite an excitement in that country in regard to lead and I got somewhat interested, and I heard there was a colored man at Iola, about 35 miles from where I lived, and I got this Arthur Ball for to go with me as he was acquainted with this colored man, and we had a conversation.

Q That was in what year? A That was in 1879.

Q Do you know where Arthur was living, with his wife Abbie? A They was living there in Mound City, or about a mile and a half, they were living out after that on the place; he had a little farm and lived there for a while, but at that time I did not hear.

Q When she left that country was she and Arthur Ball living together as man and wife? A Yes sir.

Q You dont know where they went to? A No sir.

MR. SMITH:

Q Well, Mr. Wayne, you dont know that this woman, Abbie, was this mans wife, or that she lived with this man, except what you heard?

A No sir, no more than any other family there is in my community.

Q Well, you say that you heard they lived together? A Yes sir, and I heard they was married.

Q Where did you get acquainted with this woman? A The first time I ever saw her was in the family of Anderson Turk, about four miles and a quarter northwest of Mound City.

Q That was in 1868? A Yes sir.

Q You didnt know anything about her prior to that time?

A I di not; I may have met the lady before that but at that time is all I can call to mind.

Q Well, how long did she live at the place you saw her when she was living with Anderson Turk? A I don't think she lived there a great while until she went to Mound City and worked in the Hughes Hotel.

Q What was she doing? A Cooking.

Q Was hired out and worked? A Yes sir.

Q You never saw her with this man you are talking about?

A Except on one occasion.

Q Where was that? A It was when me and Arthur went to Iola.

Q How long had it been since you had seen her before that, do you

know; seen her after she worked in that hotel that time?

A No sir, I think they were married when she was working in the hotel.

Q Well, now, how long was that before you saw her with Anderson Turk? A I saw her around there for several years.

Q Well, you saw her at the hotel, how long was that from the time you first saw her? A I don't think it was more than six months.

Q Well, did you ever see her again until you saw her after you made this trip you were speaking about? A No, to my knowledge only once.

Q Only once? A That is all to my knowledge.

Q So that makes,--- you don't remember the last time you saw her, the year it was? A No sir, I remember her after that, I remember the circumstance that happened.

Com'r. Breckinridge: This will be filed as supplemental testimony in Cherokee Freedman case D.#447, of Abbie Mayhew, and also in Cherokee Freedman case D #446.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rosson

Subscribed and sworn to before me this November 7th, 1901.

(signed) T. B. Needles,
Commissioner.

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File with CFD-446, Celia Chambers.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION, in the matter of the application of Celia Chambers, et al., for enrollment as Cherokee Freedmen, D-446.

Appearances:

Mr. Mellette, of Mellette & Smith, Vinita, I. T.,
attorneys for the applicants;
J. S. Davenport, of attorney for Cherokee Nation.

W. H. NOBLE, being duly sworn and examined testified as follows:
BY MR. DAVENPORT:

Q What is your name? A W. H. Noble.

Q Where do you live? A On Big Creek.

Q How long have you lived on Big Creek? A About thirty odd years.

Q Where is Big Creek? A It is in Cooweescoowee District, about the center of Cooweescoowee District.

Q Running to the Kansas line from the Cherokee Nation? A Yes sir.

Q You know Celia Chambers? A Yes sir.

Q How long have you known her? A I have known her as Mrs. Adair, George Adair's wife, until the last four or five years, when she married Chambers right there in my neighborhood, right under me.

Q You say she was living with Adair? A Yes sir, George Adair.

Q When did she first come into your neighborhood there on Big Creek?

A I think, as well as I can recollect, in the spring of 1870.
Q Who did she come there with? A George Adair, and George Adair's wife.
Q You had been living in that country since when, on Big Creek?
A Ever since about '64, '5 I guess, '66 probably. '66 when I moved over on to Big Creek, about '66.
Q How far is she living now from where she first came in that country and settled? A Right in the first place where she settled; right on the same farm where she settled in '70 or '71, living on the same place yet.

BY MR. BELLETTE:

Q Mr. Noble, when did you locate on Big Creek? A I think it was in about '67 that I went there first.
Q What time in '67? A I think I went there first along in the winter of '67 and then commenced improvements there in the spring of '67.
Q Where did you go from when you went on Big Creek there?
A From Cabin Creek.
Q Up close to Chetopa, Kansas? A Yes sir.
Q What Freedmen cases was it you testified in at Vinita?
A I could not say now.
Q Now, Mr. Noble, you remember that you were brought in there at Vinita, before this Commission as a witness in the Freedmen cases, and you testified that you were living up near Chetopa, Kansas, and in '67 on Cabin Creek, didn't you? A I was on Cabin Creek in '67, and I was also on Big Creek in '67, all the same.
Q What part of '67 did you go over on Big Creek? A I couldnt say as to that just what time, but sometime in the spring of the year I went over there.
Q Now, didnt you testify in Eliza Gaines' case that you were living up near Kansas, Chetopa, Kansas, in the fall of '67?
A I could not say as far back as to that.
Q Now, you remember the case very distinctly dont you? A I could not say for that; I was there on Big Cabin and I was also on Big Creek in '67 both; they are near about eight miles apart.
Q You don't remember when you testified in the Eliza Gaines case there what year the war closed, did you? A I think not just at that time, but I could afterwards.
Q What? A I didnt at that time but I could afterwards.
Q Now, you are willing to swear positively that you moved to Big Creek in '67, are you? A Yes sir.
Q What time did you permanently locate on Big Creek in '67?
A We went there in the spring and I moved my stuff there ~~later~~ during the summer of '67.
Q Then you were not on Cabin, near Chetopa, Kansas, in the fall of '67? A Why, principally, yes.
Q You didnt live there? A I lived with my uncle, yes, at that time I was a young man.
Q You didnt have a regular home at that time? A No sir, not then.
Q You dont know where Calia Chambers come from when you first saw her?
A She was on Big Creek when I first saw her.
Q You dont know where she was before that though? A No sir.
Q She might have been in that country so far as you know?
A Not up in that section.
Q Did you see everybody up in that country?
A In that year I was all over that country.
Q You dont pretend to swear that you saw everybody in that country do you? A No sir.

BY MR. MELLER: I want the testimony of this witness in the Eliza Gaines case made part of the testimony in this case.

BY COMMISSIONER: The request of the attorney for the applicant will be complied with, and the testimony made part of the record.

This testimony will be filed and made part of the record in the following Cherokee Freedmen cases: No. D-447, D-449, D-451, D-452 and D-560.

-----00000000-----

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) M. D. Green

Subscribed and sworn to before me this February 28th, 1902.

(signed) T. B. Needles,
Commissioner.

-----000000000000-----

I, Mattie E. DeWitt, being duly sworn, state that as stenographer to the Commission to the Five Civilized Tribes, I copied the foregoing testimony and proceedings in the above stated case, and the same is a true copy from the original.

Mattie E. DeWitt

Subscribed and sworn to before me this 4th, day of August, 1902.

Bruce C. Jones
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Jacob Ross, et al., as Cherokee Freedmen, consolidating the applica-
tions of

Jacob Ross, et al.....	Cherokee Freedmen	D	539
George Ross, et al.....	"	D	540
Moses Ross, et al.....	"	D	541
Sarah Allen, et al.....	"	D	543
Rosanna Skaggs, et al....	"	D	545
Willie Ross, et al.....	"	D	838
Thomas Archer, et al.....	"	D	901
Eli Archer.....	"	D	1002
Celia Thompson, et al....	"	D	446
Jessie Brown, et al.....	"	D	449
Benjamin Adair, et al....	"	D	451
Abbie Rowe, et al.....	"	D	452
Peter Adair.....	"	D	560
Frank Whitmire, et al....	"	D	956
Austin Whitmire, et al...	"	D	974
Nelson Whitmire.....	"	D	1090
Abbie Mayhew.....	"	D	447

-: D E C I S I O N :-

The record herein shows that applications were made to this Commission for enrollment as Cherokee Freedmen by Maria Ross, for herself, her husband, Jacob Ross, her daughter, Ella Ross, and her minor grandchild, Thomas Anderson; the said Thomas Anderson, being differently classified, is not embraced in this decision; by George Ross for himself, his wife, Rose Ross, and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself and her husband, William Skaggs; the said William Skaggs claims only by intermarriage and his rights are not passed upon in this decision; by Willie Ross for himself, his wife, Rosa, and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself and his wife, Georgiann Archer; the said Georgiann Archer claims only by intermarriage and her rights are not passed upon in this decision; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Alonzo, Sally and Elsie May Adair and her minor grandchild, Lela Whitmire; by Jessie Brown for herself, her husband, Robert Brown, and their minor children, Turner, Bessie, Gracie, Gladys and Oella Brown; the said Robert Brown claims only by intermarriage and his rights are not passed upon in this decision; by Benjamin Adair for himself, his wife, Linnie Adair,

and their minor children, Isaac, Ollie, George, Cleveland and Aid Adair; by Abbie Rowe for herself and her minor children, Arthur, Winnie and Abbie Rowe; by Peter Adair for himself; by Frank Whitmire for himself and his minor children, Jesse, Ada, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Minnieola, Josephine and Arthur Whitmire; by Nelson Whitmire for himself; and by Abbie Mayhew for herself.

Copies of the testimony, taken at Muskogee, Indian Territory, on April 15, 1902, in the case of Nelson Murrell et al., Cherokee Freedmen D-548; at Muskogee, Indian Territory, on May 15, 1902, in the case of Mary Harris et al., Cherokee Freedmen D-528; and at Vinita, Indian Territory, on October 3, 1901, in the case of David Martin et al., Cherokee Freedmen D-486, are filed herewith and made a part of the record in this case.

The evidence in this case shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the commencement of the rebellion and were taken out of said nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to said nation within the time specified in the decree of the Court of Claims, rendered on February 3, 1896, in the case of Moses Whitmire, trustee et al., vs. the Cherokee Nation et al., for the return of freedmen to the Cherokee Nation; that Frank Whitmire did return to the Cherokee Nation within the time specified in the decree of the Court of Claims of February 3, 1896, supra.

That Ella Ross, George Ross, Moses Ross, Willie Ross, Rosanna Skaggs, Sarah Allen, Fred Ross, Stella Ross, Emma Ross, Lee Etta Ross and Oscar Tucker are the children and grandchildren of Jacob and Maria Ross, born since 1866, and possess no rights to enrollment except as their descendants. That Louisa Burney was born subsequent to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll. That Rose Ross, the wife of George Ross, was born since 1866 and claims the right to enrollment through her father, one Louis Gibson, whose application for enrollment as a Cherokee Freedman has been denied by this Commission. (see Cherokee Freedman D-774). That Eli Archer and Rosa Ross, wife of Willie Ross, were born since 1866 and are the descendants of, and claim the right to enrollment through, Thomas Archer and his wife, Delcie Archer, who returned to the Cherokee Nation with her husband after the rebellion. That Rachel Ross, wife of Moses Ross, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant, Austin Whitmire, Nelson Whitmire, Cora Whitmire, Minnieola Whitmire, Josephine Whitmire, Arthur Whitmire, Lola Whitmire, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair and Aid Adair are the children and grandchildren of Frank Whitmire, born since 1866, and claim the right to enrollment through the said Frank Whitmire. That Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claude Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe are the children and grandchildren of the said Celia Thompson, born since 1866, and claim the right to enrollment through the said Celia Thompson.

The evidence further shows that Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair,

Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Abbie Mayhew are not identified upon the Cherokee tribal roll of 1880.

It further appears that Frank Whitmire has resided continuously in the Cherokee Nation since his return thereto, in 1866, with the exception of about one year when he had a temporary residence in the State of Missouri, and that the applicants Lela Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Minnie Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire and Louisa Burney have resided in the said nation since birth.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Jacob Ross, Maria Ross, Ella Ross, George Ross, Rose Ross, Fred Ross, Stella Ross, Moses Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Willie Ross, Rosa Ross, Emma Ross, Lee Etta Ross, Eli Archer, Thomas Archer, Celia Thompson, (formerly Chambers), Aleck Adair, Goldy Adair, Elsie May Adair, Benjamin Adair, Peter Adair, Josie Brown, Turner Brown, Bessie Brown, Gracie Brown, Claudy Brown, Celia Brown, Abbie Rowe, Arthur Rowe, Minnie Rowe, Abbie Rowe, and Annie Mayhew, as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stat., 495); and it is further the opinion of this Commission that Lela Whitmire, Rachel Ross, Lizzie Adair, Isaac Adair, Ollie Adair, George Adair, Cleveland Adair, Aid Adair, Frank Whitmire, Jesse Whitmire, Ada Whitmire, George Whitmire, Bessie Whitmire, Ella Bryant (formerly Whitmire), Austin Whitmire, Cora Whitmire, Minnie Whitmire, Josephine Whitmire, Arthur Whitmire, Nelson Whitmire, and Louisa Burney should be enrolled as Cherokee Freedmen, in accordance with the provisions of said section twenty-one of the act of Congress above cited, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Rixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory

Dec 16 1904

9
F 452
No. D. ~~772~~

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901

Given under my hand this
day of..... A. D. 1901.

.....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

day of SEP 18 1901-1901.

William Smith
Attorney for applicant.

UNITED STATES OF AMERICA
INDIAN TERRITORY, s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A.D. 1901

Subscribed and sworn to before me
this..... day of..... A.D. 1901.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

SEP 20 1901

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of
for enrollment as a Cherokee citizen:

Case No. D

To

Abbie Rowe
452
Abbie Rowe or Mellette Smith atty
You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of *Vinita, Indian Territory.*

Indian Territory, on *Oct 26, 1901* at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this *SEP 14 1901*

L B Bell.
W. C. Hastings
Attorneys for the Cherokee Nation.

J. D. 1452

19

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Abbie Rowe,

Winer, I.T.

Cherokee F-D-452

Register.


TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

B. 75-2
DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 31 1901


ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

Post Office

District

May 31, 1901

Primer, S. A.

Xero

1. Name

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

2. Name of wife

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

Names of Children:

3. Arthur Rowe

Year

Page

No.

Dist.

4. Minnie

Year

Page

No.

Dist.

5. Abby

Year

Page

No.

Dist.

6.

Year

Page

No.

Dist.

7.

Year

Page

No.

Dist.

8.

Year

Page

No.

Dist.

9.

Year

Page

No.

Dist.

10.

Year

Page

No.

Dist.

11.

Year

Page

No.

Dist.

12.

Year

Page

No.

Dist.

Application made by

Stenographer

No 3 on S.C. roll as

Minnie Adair

No 4 on Wallace Roll Page 134

Abby Adair

No 2796, Abby Adair Xero

Represented by Mellett, Smith, Vinton S. A.

6

0452

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUL 17 1901

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Abbie Rowe et al for enrollment
as Freedmen of the Cherokee Nation, one copy of the original tes-
timony of May 31st, 1901.

Mellette Smith

Attorney for Applicants.

Cherokee T. #D452.

COPY

Cherokee Freedmen
B-539, et al

Muskogee, Indian Territory, December 15, 1904.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 15, 1904, granting the applications for the enrollment of Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair, Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Minnie, Josephine, Arthur and Nelson Whitmire, Ella Bryant (formerly Whitmire), Louise Burney and Rachel Ross, as Cherokee Freedmen, and rejecting the applications for the enrollment of Jacob, Mariah, Ella, George, Ned, Fred, Stella, Moses, Willie, Ross, Emma and Lee Hita Ross, Sarah Allen, Oscar Tucker, Rosanna Skaggs, Eli and Thomas Archer, Celia Thompson (formerly Chambers), Aleck, Goldy, Elsie May, Benjamin and Peter Adair, Jessie, Turner, Bessie, Gracie, Claudy and Celia Brown, Abbie, Arthur, Minnie and Abbie Rowe and Abbie Mayhew, as Cherokee Freedmen.

-4-

You are hereby advised that you will be given fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the principal applicants. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

(SIGNED):

Jane Bixby

Chairman.

Encl. 2-60

COPY.

Cherokee Freedman
D-452.

Muskogee, Indian Territory, January 7, 1905.

Abbie Rowe,

Winer, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, the application for the enrollment of yourself, and your minor children, Arthur, Minnie, and Abbie Rowe, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

SIGNED: *Tams Bixby.*
Chairman.

Encl. L-57.

Register.

COPY

Cherokee Freedmen
B-482.

Waskogee, Indian Territory, January 7, 1905.

Abbie Rowe,

Wimer, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, the application for the enrollment of yourself, and your minor children, Arthur, Minnie, and Abbie Rowe, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED)

Tams Bixby,
Chairman.

Encl. L-57.

Register.

COPY

Cherokee Freedmen
D-559 et al.

Mustang, Indian Territory, January 7, 1905.

Edgar Smith,

Attorney for Mariah Ross et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated December 18, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting, among others, the applications for the enrollment of Mariah, Ella, George, Rose, Fred, Stella, and Moses Ross; Sarah Allen, Oscar Tucker, Rebecca Skaggs, Thomas Archer, Golia Thompson, Alick, Goldy, Elsie May, Benjamin, and Peter Adair; Jennie, Turner, Bessie, Gracie, Gladys, and Golia Brown; Abbie, Arthur, Minnie, and Abbie Ross; and Abbie Mayhew, and granting, among others, the applications for the enrollment of Rachel Ross, Louisa Bursey, Lela, Frank, Jesse, Ada, George, and Bessie Whitmire; Lizzie, Isaac, Golia, George, Cleveland, and Aid Adair; and Ella Bryant, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the

COPY.

90.

Interior for his review and decision. The action of the Secretary
will be made known to you as soon as the Commission is informed of
the same.

Respectfully,

SIGNED: *Tame Dixby.*
Chairman.

Encl. 1-24.

COPY.

Cherokee Freedmen
D-639 et al.

Huskogee, Indian Territory, January 7, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted record of proceedings had in the consolidated case of Jacob Ross et al., including the Commission's decision dated December 16, 1904, dismissing the application for the enrollment of Jacob Ross, rejecting the applications for the enrollment of Mariah, Ella, George, Rose, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Etta Ross; Sarah Allen, Oscar Tucker, Rebecca Skaggs, Thomas and Eli Archer; Callie Thompson, Alcock, Goldy, Elsie May, Benjamin, and Peter Adair; Jessie, Turner, Bessie, Gracie, Claudy, and Callie Brown; Abbie, Arthur, Nimble, and Abbie Ross; and Abbie Mayhew, and granting the applications for the enrollment of Rachel Ross, Louisa Warner, Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Minnie, Josephine, Arthur, and Nelson Whitire; Ella Bryant, and Lizzie, Isaac, Ollie, George, Cleveland, and Aid Adair, as Cherokee Freedmen.

Respectfully,

SIGNED. *Tame Dixby.*
Chairman.

Encl. L-67.

Through the
Commissioner of Indian Affairs.

LAND:
2223-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

April 1, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I enclose a report from the Commission to the Five Civilized Tribes, dated January 7, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Maria Ross for herself, her husband, Jacob Ross and her daughter, Ella Ross; by George Ross for himself, his wife, Rose Ross and their minor children, Fred and Stella Ross; by Moses Ross for himself and his wife, Rachel Ross; by Sarah Allen for herself and her minor children, Oscar Tucker and Louisa Burney; by Rosanna Skaggs for herself; by Willie Ross for himself, his wife, Rosa and their minor children, Emma and Lee Etta Ross; by Thomas Archer for himself; by Eli Archer for himself; by Celia Chambers (now Thompson) for herself, her minor children, Aleck, Goldy, and Elsie May Adair, and her minor grandchild, Lela Whitacre; by Josie Brown for herself and her minor children, Gracie, Claudy and Celia Brown; by Benjamin Adair for himself, his wife, Lizzie Adair, and their minor children, Isaac, Ollie, George, Cleveland and Aid Adair; by Abbie Rowe for herself and her minor children, Arthur, Winnie and Abbie Rowe; by Peter Adair for himself; by

Frank Whitmire for himself and his minor children, Jesse, Ada, George and Bessie Whitmire and Ella Bryant (formerly Whitmire); by Austin Whitmire for himself and his minor children, Cora, Mineola, Josephine and Arthur Whitmire; by Nelson Whitmire for himself, and by Abbie Mayhew for herself.

December 16, 1904, the Commission decided favorably to Rachel Ross, Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair; Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Mineola, Josephine, Arthur and Nelson Whitmire; Ella Whitmire Bryant and Louisa Burney and adversely to all the other applicants.

The record shows that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers, Abbie Mayhew and Frank Whitmire were slaves of Cherokee citizens at the beginning of the war of the rebellion and were taken out of the Cherokee Nation, and that Jacob Ross, Maria Ross, Thomas Archer, Celia Chambers (now Thompson) and Abbie Mayhew did not return to the Nation on or before February 11, 1867, but that Frank Whitmire did return prior to said date.

It is also shown that Ella, George, Moses, Willie, Fred, Stella, Emma and Lee Etta Ross and Rosenna Skaggs, Sarah Allen and Oscar Tucker are the children and grand children of Jacob and Maria Ross born since 1866, and possess no rights to enrollment except as their descendants; that Louisa Burney was born subse-

quent to the date of the 1880 roll, and is the minor child of one James Burney, who is identified on the 1880 authenticated Cherokee roll; that Rosa Ross, the wife of George Ross was born since 1866 and claims right to enrollment through her father, one Louis Gibson, whose application has been denied and the adverse decision affirmed by the Department November 19, 1903 (I.T.D. 6188, 8060-1903); that Eli Archer and Rosa Ross, wife of Willie Ross were born since 1866, and are the descendants of, and claim right to enrollment through Thomas Archer and his wife Delsie Archer, who returned to the Cherokee Nation with her husband subsequent to February 11, 1867; that Rachel Ross wife of Moses Ross, Jesse, Ada, George, Bessie, Austin, Welson, Cora, Minnie, Josephine, Arthur and Lela Whitwire, Ella Bryant, Lizzie, Isaac, Ollie, George, Cleveland and Aid Adair are the children and grand children of Frank Whitwire, born since 1866, and claim right to enrollment through her.

It does not appear that any of the Applicants is identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision is recommended.

Very respectfully,

C. P. Larrabee

Acting Commissioner,

Y.M.K. (W)

(COPY)

D.C. 48512-1906.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

CHW
LLB

I.T.D. 3396, 8393, 8445,
8479, 8497, 8583,
8585, 8589, 8649,
8767, 8791, 8793,
8795-1906.

November 2, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 7, 1906, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for the enrollment of Jacob Ross et al. as Cherokee freedmen, including its decision of December 16, 1904, rejecting the applications of Jacob, Mariah, Ella, George, Rose, Fred, Stella, Moses, Willie, Rosa, Emma, and Lee Etta Ross; Sarah Allen; Oscar Tucker; Rosanna Skaggs; Thomas and Eli Archer; Celia Thompson; Aleck, Goldy, Elsie May, Benjamin, and Peter Adair; Jennie, Turner, Bessie, Gracie, Claudy, and Celia Brown; Abbie, Arthur, Minnie, and Abbie Rowe, and Abbie Mayhew; and granting the applications of Rachel Ross; Louisa Burney; Lela, Frank, Jesse, Ada, George, Bessie, Austin, Cora, Minnie, Josephine, Arthur, and Nelson Whitmore; Ella Bryant, and Lissie, Isaac, Ollie, George, Cleveland, and Aid Adair.

Reporting April 1, 1906 (Land 2223), the Indian Office rep-

ommended that the Commission's decision be approved. A copy of its letter is inclosed.

September 7, 1905, motions for review were filed in the matter of the applications of Moses Ross, Abbie Rowe et al., Celia Thompson et al., Rose Seaggs, Ella Ross et al., George Ross et al., Jacob Ross et al., Abbie Mayhew, Benjamin Adair, Sarah Allen et al., Eli Archer et al., and Thomas Archer.

There appears to be no proper reason for granting said motions and they are hereby denied.

The Department concurs in the recommendation made, and the decision of the Commission is hereby affirmed.

The Indian Office will notify local attorneys of departmental action.

The papers in the case, including said motions for review, have been sent to the Indian Office for its files.

Respectfully,

H. A. Hitchcock

Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 14 to Ind. Of.

Cherokee Freedmen

D-482.

Muskogee, Indian Territory, November 13, 1906.

Abbie Ross,

Wimer, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of your case, filed by your attorneys September 7, 1905, denied.

Respectfully,

LS

Commissioner.

Cherokee Freedmen

D-539, et al.

Muskogee, Indian Territory, November 13, 1906.

Blue & Bulger,

Attorneys for Jacob Ross, et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed by you September 7, 1906, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. S-4
LS

Commissioner.

Cherokee Freedmen

D-539, et al.

Muskogee, Indian Territory, November 13, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated December 16, 1904, rejecting the applications of Jacob Ross, et al., and granting the applications of Rachel Ross, et al., for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior November 2, 1906, and the motion for review of said cases, filed September 7, 1905, denied.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Incl. 8-1
LS

Commissioner.

Cher. Fr. R 896

Cher. Fr. R 896

Trans. from Cher. Fr. D 453

SUPPLEMENTAL TESTIMONY.

P.-D. 7452.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHULSA, I.T., MAY 31st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Jackson Davis as a Cherokee Freedman:

CARRIE DAVIS, being first duly sworn, by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Mr. Smith, of Firm of Mellette & Smith, Attorneys for Applicants.

Mr. L. B. Bell, Cherokee Representative:

EXAMINATION BY MR. SMITH:

Q State your name. A Carrie Davis now; I used to be Carrie Whitmire.
Q Is Jack Davis your husband? A Yes, sir.
Q How old are you? A I am 64 years old.
Q Were you a slave during the war? A Yes, sir.
Q To whom did you belong? A Belonged to George Whitmire.
Q Was George Whitmire an Indian? A Yes, sir.
Q Cherokee Indian? A Yes, sir.
Q Where did he live before the war? A Down in Going Snake on the Barren Fork.
Q Were you out there when the ~~war~~ war came up? A Yes, sir.
Q Did you go out of the Cherokee Nation during the war?
A Yes, sir.
Q When did you come back? A '66.
Q Where did you come to? A Fort Gibson.
Q Now, where have you been living since? A I was, since I have been living on Grand river, 33 years.
Q Been living on Grand river 33 years? A Yes, sir.
Q Now, you don't know of your own personal knowledge what time Jack Davis got back? A No, sir; I don't know just when he got back, I know where I found him.

BY L. B. BELL:

Q Who was it you belonged to? A George Whitmire.
Q Where did you go when you went out? A I went to Fort Scott.
Q You went up to Kansas too? A Yes, sir.
Q When did you return? A I returned in the summer of '66.
Q Who came with you? A My old step-grandfather and Henry Merrill and another man by the name of Murray.
Q Henry Merrill? A Yes, sir.
Q Who was your grandfather? A Old uncle Daniel Sanders.
Q He is dead now? A Yes sir, and my grandfather.
Q Your grandfather is dead isn't that? A Yes, sir, Tampa Sanders.
Q Is anybody alive that came with you? A No, sir, but my brothers and sisters; my brother-in-laws at Gibson they come from the south.
Q What was their names? A Emily Whitmire was my mother.
Q Is she alive? A No, sir, she is dead.
Q Now, who was down there at Gibson when you first got there?
A The first one I saw was Solomon Forester and his wife, Elizabeth Forester; I went to their house; that is where the first house I went to was Forester.
Q Did you know a woman that was down there by the name of Amanda Forester? A Yes, sir, I did.
Q Did you see anything of her when you went there? A Yes, sir; I saw her.

Q In '66, who was living there in '66? A Yes, sir, I was right there at her house.

Q Where did you start from when you started from Kansas?

A I started from Fort Scott.

Q That is where you were living? A That is where I was.

Q About how many with you in that crowd? A Four or five with me; I was down on the old Military road.

Q You come down the old Military road did you?

A Yes, sir, right by where you used to live.

BY MR. SMITH:

Q How long have you and Jack Davis been living together as man and wife? A Well I must get with him; it must have been in '69 I think, or '68, I don't know which.

Q You and he had been married in war times? A No, sir, I wasn't married before the war, but I knew him.

Q When were you married? A We married it must have been in '69 or '68, I don't know which, one of them I was married to him.

Q These children then are not your children? A No, sir; they are my stepchildren.

Q You are looking out now for yourself? A Yes, sir, I was looking then for these.

BY MR. HELL:

Q Were you with Jack when you stayed there at the mouth of Reek Creek? A Yes, sir, I was with him then, but I hadn't been with him long.

Q You were with him a year or two? A Yes, sir, I found him up on Big Creek, all my people was living down there, Johnson Whitmire people, there was two brothers of the Whitmires.

Q You and him didn't marry since you found him on Big Creek?

A Yes, sir, and then we moved to Grand river.

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J. O. Benson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Benson

Subscribed and sworn to before me this 4th day of June, 1901.

J. B. [Signature]

Commissioner.

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SECRETARY OF THE
TREASURY
U.S. DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20548

ACTIVA CHILIANA

Department of the Interior,
Commission to the Five Civilized Tribes.
Cherokee, I. T., May 31, 1901.

In the matter of the application of Jackson Davis for the enrollment of himself and his wife, Caroline Davis, as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows: Mellette & Smith, Attorneys for Applicant.

Q What is your name? A Jackson Davis.
Q How old are you? A 74.
Q What is your postoffice address? A Adair.
Q What district do you live in? A Delaware.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My wife and four or five children.
Q Have you got any children under 21 years of age? A Yes sir.
Q Unmarried? A No sir, none unmarried.
(Children will apply for themselves.)
Q What is your wife's name? A Caroline.
Q How old is she? A About 55, I believe it is.
Q Have you and your wife ever been recognized as Cherokee Freedmen?
A Well, I have been one portion.
Q Are your names on the roll of 1880? A I don't know whether it is or not.
Q Is it on any of the rolls of the Cherokee Nation? A It ought to be there; I don't know sir.
By Mr. Smith: Well, Jack, are you on the Kerns Clifton Roll? A I suppose I am.

The 1880 authenticated roll and the 1896 census roll examined and the names of the applicants not found thereon.
The Kerns Clifton Roll examined and the names of the applicants are found thereon as follows:
Page 103, No. 2567, Jack Davis, Cooweescoowee District.
Page 103, No. 2568, Carrie Davis, Cooweescoowee District.
The Wallace Roll examined and the names of the applicants are found thereon as follows:
Page 110, No. 2531, Jackson David, Delaware District.
Page 111, No. 2546, Carrie Davis, Delaware District.

By Mr. Smith: What are the names of your children, Jack? A One his named Sallie, and William, John and Ellen and Lizzie; I only got five.
Q Are the girls married? A Yes sir, they are all married.
Q Give the names now of each one of the girls? A The eldest one is named Sallie.
Q Sallie what? A Sallie Whitmire.
Q What is the next girl's name now? A Lizzie Grimes; she is a widow.
Q The next girl? A Ellen Bell.
Q What are these papers you handed me, can you read? A No sir, I can't read or write.

Attorney for Applicant desires to offer permits issued by the Cherokee Nation to the applicant for laborers.
Exhibit He presents four permits issued by the Cherokee Nation, which will be filed.

By Mr. Smith: Were you a slave during the war? A I was a slave.
Q Whom did you belong to? A I was by the name of Mr. William Davis.
Q How was he a Cherokee Indian? A He was a white man of a Cherokee family.
Q Who was his wife? A Polly Burnes, I think.
Q Do you remember? A I remember, but he has been dead so long.
Q Where were you living at the time the war broke out? A Plant District.
Q With the family you speak of? A Yes sir, I was raised with them.
Q Did you go out of the nation during the war? A Yes sir.

2- J. B.

Q Where did you go? A I went to Kansas. I was with the old army.

Q When did you come back to the Cherokee Nation after the war?

A I come back in '56.

Q How many children did you have then? A Had all the children that I have got now.

Q Did you bring them back with you? A Not when I first come, I didn't bring them right in; I brought them afterwards. I first come myself and looked for allocation and went back and got them.

Q Where did this man, Dr. Davis, you speak of live? A He lived in Flint District.

Q Near what place? A Near Evansville.

Q Can you state what time of the year 1866 you came down? A Not exactly sir, it has been so long; I can't just exactly make a good statement of that.

Q Who did you come with? A I come with a man by the name of Mr. Webber and others.

Q What was Webber's first name? A Sam.

Q About how old do you think you are now? A I am just 74 years old last Christmas past. Christmas day was my birthday.

Q When did you and Caroline, your wife, marry? A We was together before the war, but we separated at the time of the war, and in slave time we lived together, and got together again; we were married before the war.

Q Is there anyone here who knows when Caroline came back to the Nation, do you know? A Yes sir, she was here with her mother and grandmother, here at Fort Gibson she claims; I wasn't living with her at that time.

Q Who did Caroline belong to? A A family by the name of George Whitmire.

Q Was he an Indian? A Yes sir.

Q Where did he live? A He lived down in Goingsnake District.

Q Near what place? A I couldn't tell you what place it is; what the name is; on the Baron Fork I believe it is.

Q Is your recollection as good as it used to be? A No sir, not near as good as it used to be; I don't remember; I can't keep things in my head.

Q You don't remember how old you are? A No sir, I don't remember, but we come pretty close to it.

L. B. Ball: Where did you start from in Kansas, Jack, when you started back to the Cherokee Nation? A I started from about fifteen miles above Fort Scott.

Q Who come with you? A Samuel Webber.

Q Well, where did you come to? A We come all down to Horse Creek, and all through the territory above here.

Q Where did you finally locate? A I stopped a while out towards Big Creek and located there a while and then it didn't suit me there, I left there after some long a time, I don't know how long I stayed there; there wasn't anything to eat and I hammered around in Big Creek a while.

Q Was it three or four weeks? A Yes, I reckon it was about that time.

Q And then where did you go? A I knocked about and I had to work for something to eat; I was scarce of money, and worked around wherever I could get labor to do on one place and another.

Q When you left Big Creek where did you go? A After so long a time I was on Rock Creek and I moved to Grand River.

Q You went to the mouth of Rock Creek then? A Yes sir. I don't know how long; I was hard up then, and later I couldn't keep them no how.

Q Which side of Grand River did you settle? A On the south side when I first settled there; I just rented around among them.

Q You had you went to Big Creek from the mouth of Rock Creek? A You know I lived on the other side.

Q Where did you live on the other side, we call it the east side on the side that Lynch's prairie is on? A Yes sir, on the east side.

Q Where did you live there the first year after you left Big Creek? A I lived with a man by the name of Walt on his place, in

3- J. D.

a little house in the woods there.

Q Well then after you left Wolf, the next year where did you live?

A I stayed there two or three years with him; three I think.

Q Well, after you left Wolf where did you go? A Across the river.

Q On the place you are living now? A Yes sir, on the place I am living now.

Q Been living there ever since? A Yes sir.

Q Never moved out and stayed five or six years? A No sir.

Q Never scouted none? A No sir, never scouted a day.

Q Didn't scout any when Finley got after you for tobacco? A No sir, didn't scout then.

Q You are pretty certain you stayed three years on the Wolf farm?

A I reckon about three years; I guess it was near three years I stayed over there. I didn't have no place, I was just renting around from those families from one and then another.

Sam Webber, being sworn by Commissioner Needles, and examined by Attorney Edgar Smith, testified as follows:

Q State your name? A Sam Webber.

Q What is your postoffice? A Nowata.

Q How long have you lived in the Cherokee Nation? A Ever since '66.

Q Are you a Freedman citizen of the Cherokee Nation? A Yes sir.

Q Are you on the 1880 roll? A Yes sir.

Q Do you know Jackson Davis, who is the applicant in this case?

A Yes sir.

Q How long have you known him? A I have seen him before the war, but just to know him; I never knewed him right good until the time of the war I got acquainted with him good.

Q Where did you see him before the war? A I seen him down here in the nation; he come to Big Creek.

Q You had some acquaintance with him before the war commenced? A Yes sir, of course, I was a little acquainted with him.

Q When did you first see him after the war? A In the time of the war you mean, don't you?

Q I mean when did you first see him after the war in the Cherokee Nation? A I seen him in '65; in the fall of '65.

Q Where abouts? A He come with us there to Horse Creek; my first trip to the country.

Q Was he married at that time in '65? A No sir, he wasn't married right then; he was a single man; he had his children you know.

Q Did you know his wife, Caroline? A I got acquainted with her too about that time or a little before.

Q Had you known her before the war or not? A I don't remember as I do before the war.

Q Do you know who Jack belonged to? A No sir, I don't really know who owned him.

Q Was he a slave before the war? A I suppose he was.

Q Do you know whether Caroline, his wife, was a slave or not?

A I suppose she was; I don't know.

Q I don't know whether you know or not. Do you know who she belonged to? A No sir, I don't know.

Q Well, how long did you stay and how long did Jack Davis stay on Horse Creek in 1865? A We stayed all night together there and I left him at Horse Creek; I went on to Gibben and I

left him at Horse Creek, left him there with my father, old Sam Webber.

Q Your father's name was Sam Webber also? A Yes sir.

Q When did you next see Jack Davis after you left him on Horse Creek in '65? A I seen him on Big Creek.

Q Not long afterwards? A The next fall.

Q In the fall of '65? A Yes sir.

Q What family did Jack have at that time? A Just his children.

Q Can you think how how many children there were? A I don't know that I can state all of them; I can state some of them.

Q State all you can? A I can name one Sallie, French was her name, John and Will.

Q What were the names of

4- J. D.

What were the names of Jack Davis' children at that time? A Sallie.

Q The next one? A John and Will.

Q Do you remember any others? A There was another girl I seen, but I can't call her name; she was small.

Q About what time in 1886 was that when you saw Jack and those children? A Along late in the fall of '86 when they come where we were over there.

Q Where were they at that time? A On Big Creek in the Cherokee Nation.

Q Have you known Jack Davis ever since that time? A Yes sir.

Q Where has he been living? A He went to Grand River from there the time I saw him; he was on Grand River after that.

Q Is that in the Cherokee Nation? A Yes sir.

Q Do you know John Davis? A Yes sir.

Q Where does John Davis live? A He lives on Lightning Creek now.

Q How long has he been living there? A I don't know, I can't tell you now; he has been there a good while.

Q Give me your recollection or judgment as to the number of years? A It is pretty hard for me to do; I never noticed him particularly; he has been there a good ~~while~~ long while on Lightning.

Q Do you know William Davis? A Yes sir.

Q Is he living or dead? A He is living enlightning.

Q Do you know Sallie? A Yes sir, she lives on Lightning.

Q Is she married? A Yes, she is married now.

Q What is her name now? A Sallie Whitmire, Dennis Whitmire's wife.

Q And what was the other one's name you mentioned a while ago? A I couldn't tell you.

L. B. Bell: You say you left Jackson Davis late in the fall of '86 at Horse Creek to go to Gibson? A In '85.

Q Who was with him? A My father.

Q What was your father's name? A Sam Webber.

Q Where were they going? A They come down on a hunt and to look around at the country; peace was declared you know.

Q How much of a crowd was with them - you wasn't of the party, you just come across them? A We all left Kansas together.

Q Who was in the crowd? A Jesse Brown.

Q Go ahead? A John Curry.

Q Name another one? A Israel Johnson.

Q Did they have their families with them? A No sir.

There was another fellow I can't think of his name. His name is out of my mind another man.

Q Did you make any locations that fall? A No sir.

Q What became of him when you left him at Horse Creek? A I left him there. I went to Gibson and when I come back to this part of the country, I went to Verdigris, and I never seen him, and I stayed there until March '88, me and Jesse Brown.

Q And your father? A No sir, he never got with me anymore there.

Q Where did you leave him? A On Horse Creek. When we left there we went to Goodys Bluff on the River.

Q When you went to Goodys Bluff you got with Jesse Brown? A No sir.

Q Who was with you at Goodys Bluff on the hunting trip? A Jesse Brown, John Stop, Lou May, Tobe Brew and son.

Q Were there two Jesse Browns? A No sir, only one I know.

Q You said just now you left Jesse with your dad? A No sir, I said Jesse and I went to Gibson.

Q You and Jesse left them there? A Yes sir.

Q When did you come down here and settle? A In the fall of '86

Q Jack wasn't with you on that trip? A No sir, he didn't come down with me on that trip. He come shortly afterwards.

5- J. D.

Abraham Hara, being sworn by Commissioner Needles, and examined by Attorney Edgar Smith, testified as follows:

Q State your name? A Abraham Hara.

Q What is your postoffice? A Wimer.

Q How long have you lived where you live now? A Well, about thirty years, maybe longer.

Q Are you a Cherokee Freedman? A Yes sir.

Q Do you know Jackson Davis? A Yes sir.

Q How long have you known Jack? A I have known him ever since he was a boy.

Q Did you know him before the war? A Yes sir.

Q Where was Jack then when you knew him before the war? A Way down here about east of Tahlequah, as high as I can come at it.

(Cherokee Attorney, L. B. Bell, states that: " It is conceded that he is a Cherokee Freedman."

Q Did you go out of the Cherokee Nation during the war? A No sir.

Q When did you first see Jack Davis in the Cherokee Nation after the war? A Well, as high as I can come at it, it was '86, I guess; I met Chief Ross going to Washington, and we were coming in then.

Q Where did you see Jack then? A He was in the crowd with us.

Q What place? A At Mueske River, coming down.

Q Where did you go to? A We come down to Big Creek; part of us went to Big Creek and part went on to Gibson.

Q How many children did Jack have.- what were their names? A I remember some of the boys.

Q Who were they? A John and Will; they were small boys then.

Q Did he have some girls? A I don't remember. I think he did though.

Q Where did you make your location? A On Big Creek.

Q Have you been living in that neighborhood ever since? A No sir, pretty high it though. I lived down on Grand River about three years.

Q Have you known Jack Davis ever since that time? A Yes sir.

Q Where has he been living? A He has been down on Grand River part of the time and part of the time on Big Creek. He left Big Creek and went to Grand River.

L. B. Bell: What time of the year was it you met Chief Ross? A In '86.

Q That was the year, but what time was it? A In the fall.

I think it was in the fall; it was warm weather; summer. I called it fall.

Q It was along in the summer or fall, was it? A Yes sir.

Q Chief Ross, you mean old John Ross? A Yes sir.

Commissioner Needles:

Jackson Davis applies for the enrollment of himself and his wife, Caroline. Upon examination of the roll of 1880, his name cannot be found thereon. He and his wife are both duly identified on the Kerns Clifton Roll and the Wallace Roll according to page and number of the said rolls as indicated in the testimony, and makes satisfactory proof as to residence. By reason of the fact that their names are not found upon the authenticated roll of 1880; and the further fact that their enrollment is protested by the Cherokee Nation, the said Jackson Davis and his wife, Caroline, will be listed for enrollment as Cherokee Freedmen on a doubtful card awaiting further consideration of the Commission. They will be notified of the decision of the Commission when rendered by mail.

6- J. D.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 3rd day of June, 1901.



Commissioner.

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PERMISSION TO THE FIVE C.

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SUPPLEMENTAL TESTIMONY.

P.-D. #483.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHICKLENA, I.T., NOV. 1st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
CAROLINE DAVIS as a Cherokee Freedman.

LEWIS WHITMIRE, being first duly sworn by Commissioner
T. B. Needles, testified as follows:

APPEARANCES:

Mr. Smith, of Firm of Mallett & Smith, Attorneys for
Applicants:

L. B. Ball, Cherokee Representative:

EXAMINATION BY MR. SMITH:

Q State your name. A Lewis Whitmire.
Q Where do you live? A I live up there on Lightning Creek.
Q What is your post office? A Hayden.
Q How long have you lived there? A Why, I have been living there
I guess 34 years on the place I live on.
Q How long have you lived in the Cherokee Nation? A I have lived
there all my life, never been out, born here.
Q Do you know Caroline Davis, the wife of Jack Davis? A Yes, sir;
I know her.
Q How long have you known her? A I was born belonging to the
same man and woman there, I have known her ever since I was a
baby.
Q Who was that you belonged to? A George Whitmire.
Q Whom did she belong to? A She belonged to George Whitmire.
Q They were citizens of the Cherokee Nation, Whitmires?
A Yes, sir; they were Cherokee citizens.
Q Where was this woman Caroline when the war commenced?
A She was living with Whitmire.
Q Where is that? A Out in Going Snake, east of.
Q When did you first see Caroline after the war? A The first
place I seen her after the war at, that was at her mother's; she
was visiting her mother.
Q Well when was that? A It was along in the winter of '66.
Q Where was it? A It was on, along, three or four miles the
other side of Tahlequah.
Q Do you know by your own personal knowledge how long she had been
back then at that time? A No, sir, I didn't; I didn't know her I
was down there at Tahlequah; went down there and saw this woman, I
married at Tahlequah.
Q Was that before or after Christmas, '66? A I don't recollect
well whether it was before or after;
Q But it was in the winter near about Christmas, maybe in Christ-
mas I have forgot.
Q Where has she been living since that time? A Well she has been
living on Grand river all I know about her since that time.
Q Well how much do you know about her, have you seen her?
A I have seen her every once in a while, she has a sister out
there neighbor to me, and every once in a while she goes out there
to visit her sister, I see her then.

BY COM'R NEEDLES:

Q How old are you Mr. Whitmire? A I don't know my age well; my
age never was dated, just guess work.
Q Well about? A About 62.

Supl. F.)D. #451--2.

Q Are you a Cherokee Freedman? A Yes sir.

Q Is your name on the roll of 1880? A Yes, sir.

BY L. B. HELL:

Q Where were you living at when you went down to Tahlequah?

A Living in a house I live in now.

Q You were not a married man when you went? A No, sir, I went there to marry at that time.

Q Where did you marry? A Married in Tahlequah.

Q Have you forgot the date of your marriage? A Yes, sir, I had not date.

Q I thought it would have been such an unusual thing you would not forget that? A Well I can't recollect it, because I never dated it and I didn't have any education and the woman didn't neither and I don't recollect.

Q How come you ever there on Illinois river? A I went over there to see this woman; this woman's mother was my cousin and I went over there to see her.

Q What was this woman's mother's name? A Betsy Whitmire.

Q She was living over there? A Yes, sir.

Q You are certain that was '66? A Yes, sir, I am certain of that.

Q Did you go out of the Nation during the war? A Yes, sir,

I was out about, well a short time, I don't know about how long.

Q You went out while the war was going on? A I went out a little while.

Q Where did you go to? A Fort Scott.

Q Now when did you return? A I returned in '66.

Q About what time? A It was in the fall of '66.

Q Where did you come to? A Come to Big Creek.

Q Anybody along with you? A There was a whole host along.

Q You could name one or two? A Yes, sir.

Q Please do that; I ask you to name some of these you come with?

A Sam Webber and old man Sam Webber and Mike Sanders and Reubin Sanders.

Q Well, about what time of the fall was it? A It was along in November in the fall.

Q Did you own a house there when you moved there? A No, sir;

I didn't own any house myself because I didn't have any family.

Q Didn't you go to work and build you a house, preparing to marry?

A I built me a box house in the Spring of the year when the sap comes up in the trees and I went to get my woman and brought her home from Tahlequah.

Q Come back then from Kansas and went down to Tahlequah is when you saw this Mrs. Davis? A Yes, when I saw her, in the winter of '66.

BY MR. SMITH:

Q Mr. Whitmire, do you know Jack Davis? A Yes, sir, I knew Jack Davis well.

Q Do you know John Davis? A Yes, sir.

Q William? A Yes, sir.

Q Sallie? A Yes, sir.

Q And what others are there? A Ellen, and then they has got two children that I haven't seen for quite a while and I disremember their names.

Q Did you know the mother of these children? A Yes, sir, I recollect her well.

Q What was her name? A Julia.

Q Was she a slave? A Yes, sir.

Q Who did she belong to? A Bob French's wife.

Q Was Bob French's wife a Cherokee citizen? A She was called that.
Q Where was this woman, Julia, at the time the war broke out?
A She was dead if I don't make a mistake.
Q Well those slaves were John and William and these other children you have mentioned, what family did they belong to?
A They belonged to the French family.
Q Do you know where they were when the war broke out?
A No, sir, I don't know where they went when the war broke out.
Q Did you know of your own knowledge when they came back?
A No, sir, I didn't.

LOONEY WHITMIRE, being sworn and examined by Commissioner T. B. Needles, testified as follows:

EXAMINATION BY MR. SMITH:

Q State your name? A Looney Whitmire.
Q What is your post office? A Hayden.
Q How long have you lived there? A About 22 or 23 years, about 24, I guess or 25 I disremember.
Q Do you know Jack Davis's wife Caroline? A Yes, sir.
Q Well, do they live together as man and wife? A Yes, sir.
Q How long have they been living together of your knowledge?
A It has been.
Q As well as you remember? A It has been I guess 30 some odd years.
Q When did you first know Caroline? A Ever since I can recollect.
Q Do you know when she came back to the Cherokee Nation after the war? A Yes, sir.
Q When was it? A It was in '66, along in the summer like.
Q Where did you see her then? A Fort Gibson.

BY MR. BELL:

Q Are you a Freedman? A Yes, sir.
Q How old are you? A Why about 44 or 45, I don't know my age.
Q Do you recollect anything about where you were during the war?
A Why I think I was south, Chickasaw Choctaw Nation, I believe.
Q Well, when did you come back from the south? A In '66.
Q In the summer or spring? A Somewhere along.
Q Who came back with you? A My mother and brother and sister, Emma Davis, Josh Whitmire, Betay Whitmire.
Q What was your mother's name? A Betay.
Q Betay Whitmire? A Yes, sir.
Q Are you on the 1880 roll? A Yes, sir.
Q What was you doing in Fort Gibson when you saw this woman?
A We was located there until we could get out.
Q How long did you live there after you came back in '66?
A It must have been two or three months.
Q You know Mrs. Davis before the war did you? A Yes, sir, I was small, of course I can recollect.
Q You can recollect her and don't recollect all about yourself? A I do.
Q You said you thought you went south? A Yes, sir, I know I went south.
Q You recollect distinctly now that you went south?
A Yes, sir.

Expt. - P. - D. 443. - 4.

J. O. Rosen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosen

subscribed and sworn to before me this 4th day of June, 1901.

[Signature]

Commissioner.

IX

[illegible]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 11th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Jackson Davis as a Cherokee freedman, introduced on part of Cherokee Nation:

APPEARANCES:

Mr. Mellette, of Mellette & Smith, for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

THOMAS HAMILTON, being duly sworn by Commissioner Needles, testified as follows, on part of Cherokee Nation:

MR. DAVENPORT: what is your name? A Thomas Hamilton.

Q where do you live, Mr. Hamilton? A Mapleton, Kansas.

Q How old are you? A 73.

Q How long have you lived at or near Mapleton, Kansas? A Since '57.

Q what business do you follow, Mr. Hamilton? A I used to be a farmer, I don't do anything now for a number of years.

Q Did you, while you were living at Mapleton or in that vicinity, become acquainted with a colored man by the name of Davis? A I did.

Q what was his first name? A Jack, we used to call him.

Q Did you know any of his family? A I knowed John and William and he had two gals, but I forget their names.

Q Where were you living when you first got acquainted with him, Mr. Hamilton? A At Mapleton.

Q About when did you first get acquainted with him? A I think it must have been sometime in '63, I would not be positive.

Q Well, after you got acquainted did he work near you after that any? A He worked for my wife, I was working in the government shop and he worked for her.

Q Now, did you leave Mapleton and go away to any place after that?

A I worked in the shop after I got acquainted with him and then I left and went to Fort Smith.

Q Fort Smith, Arkansas? A Yes, sir.

Q About how long were you gone to Fort Smith, Arkansas? A Well, maybe three months, I don't remember, it was not long.

Q when you came back where was Jackson Davis if you know? A I think he was working for my wife when I got back.

Q Do you know whether he farmed any while he was living up in that country? A Yes, I know he farmed.

Q well, what years did he make crops up there, Mr. Hamilton?

A I think he must have made a crop in '66, '67 '68 and he might not have done it in '68, he made two crops.

Q Made two crops did he? A Yes, sir.

Q well, did you know his wife? A I wasn't acquainted with her, but I have seen her. They lived about two or three miles and a half from where I lived.

Q After you became acquainted with him did he go off and come back with a wife? A Yes sir, he went off and brought a woman there, when he come he had one woman there.

Q Did his family, these boys and girls, did they leave when he did? A What?

Q When did he move away from that vicinity there, from Mapleton? A He lived there three or four miles from me, three or four years.

Q Now, you said he made crops in '66, '67 and '68, now with reference to these crops when did he move away? A He went away pretty soon.

Q Did his girls or boys go away with them? A The girls I knew very little about and well, the youngest boy I never seen him much after I went home, only saw him before I come home, I seen John some.

Q Was John there up to the time his father left, or did he leave first, or do you know? A I don't really know, I seen John a number of years afterwards in Fort Scott.

Q Do you know whether he was living there or not? A No, sir, he was running a barber shop, he told me.

MR. MUILLETTE: Well, Mr. Hamilton, Jack Davis came to the Territory right here after the war, or soon after the war? A Well, that is my way of thinking that he made two crops up there, I think in '66, he come down here and got a woman and brought up there.

Q Well, Jack Davis did come to the Territory in 1866? A I think he come down here in 1866 and got a woman and brought her up there.

Q How long did he stay down here when he came in 1866? A He didn't stay a great while, shortly after that he put the crop in and come and got the woman and went back.

Q Are you certain that is '66 or '65? A That was '66.

Q Where did he make a crop you say in 1866? A He made a crop on Larks Creek.

Q Isn't that the last crop he made? A No, sir, I think not.

Q Now, how long ago has that been? A It was '66 and '67.

Q That has been about 36 years ago? A Yes, sir.

Q When did you have your attention first called to this matter?

A Until they come up here and examined here.

Q When was that? A About a month ago.

Q Now, Mr. Hamilton, do you pretend to say that you can remember a man made a crop at a certain place 36 years ago?

A What makes me remember it; I could not swear positively only just my memory lead me to that conclusion.

Q You know that he did come to the Cherokee Nation in 1866?

A Yes, sir.

Q Wasn't he back and forth frequently at that time? A I don't think he was.

Q Did you watch him all the time? A No, sir.

Q When did you leave Mapleton? A I moved there in '65.

Q You didn't pay a great deal of attention to what Jack Davis was doing about the time? A Not a great deal, only just as I would see him.

Q How far is it from here to Mapleton, Kansas? A About 120 miles.

Q How far is it from Mapleton, Kansas, to the Cherokee line?

A I don't know, it must be something high eighty or ninety miles.

Q It didn't take long to go from Mapleton, Kansas, down to the Cherokee line and Cherokee line to Mapleton, Kansas? A No, sir, not very long.

Q Well, when he finally left there, whether it was '66 or not, you understand he came to the Cherokee Nation? A That was my understanding, he was the first man to my country to come down here.


Q He was the first man out of your country to come to the Cherokee Nation? A Yes, sir, he was to my knowledge.

Com'r Needles: This testimony will be filed with the testimony in the original case of the applicant, and will be made part of the record in Freedmen doubtful cases #454, #455, #456, and #457.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this October 16th, 1901.



Commissioner.

180455

DEPARTMENT OF THE INTERIOR
MISSION TO THE CIVILIZED TRIBES

COMMISSION TO THE FIVE CIVILIZED TRIBES

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THE UNIVERSITY OF CHICAGO

STOP FOR Q44

File with Cherokee Freedmen D-453, Jackson Davis.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 14, 1901.

In the matter of the application of Delilah Rowe et al. for
enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:
Mollette & Smith, attorneys for applicants;
J. S. Davenport, of counsel for Cherokee Nation.

ELIZABETH JANE MORRIS, being duly sworn by Commissioner
Needles, testified as follows:

Mr. Davenport: What is your name? A Elizabeth Jane Morris.

Q How old are you? A I was 80 the 9th of last March.

Q Where do you live? A I live in Lynn County, Stanton Township.

Q What is your postoffice? A Mapleton.

Q How long have you lived in that section of country there in
Kansas, Mrs. Morris? A I have lived there from 1862 up to the pre-
sent time and living there yet when I am at home.

Q Since you have been living there, did you get acquainted with a
colored family by the name of Rowe? A Yes, sir, they were my near
neighbors when we were there.

Q Did you know one by the name of Delilah Rowe? A Yes, sir.

Q Did you know her father? A Yes, sir.

Q What was his name? A Daniel Rowe.

Q When did you get acquainted with this family? A When they first
came there, that was about the close of the war.

Q How far did they live from you? A About half a mile.

Q Well, how long did they continue to live there near you? A They
lived there until they moved to the Territory here.

Q About when was that, if you know, by any circumstances that
could have called that to your attention? A The same year that I
say, in '67, that Mr. Davis left me.

Q Do you know whether or not they came before or after Jack Davis
left that country? A They came before, or at least I got acquainted
with them before.

Q Did they come first or Jack Davis come first? A They came
first, Mr. Rowe came first, located.

Q Why do you say he came first, was there any circumstances?

A Well he moved there and lived there and I near neighbor with him
and I got well acquainted with them and therefore I say he came first.

Q Well, did you ever hear of any correspondence between them any-
way that makes you fix the time or ever know them coming, between
the Rowe family and the Davis family? A After Mr. Davis left there
they corresponded together.

Q What place are you speaking about that he left? A I thought I
told you on Mr. Morris' place, I didn't know of his living on any
other place where I got acquainted with him.

Mr. Smith: How long did you say this Delilah Rowe lived there?

A She lived there all the time her father did, with him.

Q What was her father's name? A Daniel Rowe.

Q Well, how long did he live there? A He lived there at the
close of the war in '68 as near as I can remember.

Q How long did he stay? A Stayed until he moved to the Territory.

Q Well, how long was that? A That was either in '67, in '68 or '69.
It is perfect about Mr. Davis, he left the same year or near as I can

he moved in the winter I recollect well, when Mr. Rowe moved, he moved in the winter, I am well aware of that, but I can't tell you exactly whether Mr. Davis moved in the fall or the spring, but Mr. Rowe, he moved in the winter, I have got that affirmed.

Q What time did he come there, in what season of the year was it?

A It was in the spring when Mr. Rowe moved there.

Q Had the war closed? A Well, people was returning home, I guess the war was pretty near closed.

Q When did the war close? A In '65 so it is said.

Q What time? A I can't tell you about what time, they said it closed in '65, but Mr. Rowe, I am satisfied, moved there in the spring.

Q Didn't you tell me a while ago that the war closed in the fall of '65? A That is what I understood, so said.

Q When was it that Mr. Rowe came there, in the fall or spring?

A He came there in the spring, I told you a while ago about the close of the war, there isn't much difference in the fall and spring.

Q Do you know which time of the year he came? A Came along about early planting time.

Q In the spring? A Yes, sir, that is how I know he came in the spring.

Q And the war closed the following fall? A So they said it closed in '65.

Q Well, was it the following fall? A Well I can't tell you, I haven't memory enough, they said it closed in the fall.

Q Well how did you get down here to testify in this case? A Didn't I tell you a gentleman came up there for me, wasn't I subpoenaed to come here and testify, when he came he brought Hamilton as a witness to my testimony, I didn't know at the time who he was but I was told since that he gave his name as a United States deputy.

Q You had no subpoena from the Dawes Commission to come here and testify?

Mr. Davenport: I object to that mode of examination: if the witness is here, she has got a right to come whether she is subpoenaed or not.

Commissioner: It is a circumstance as to the whole matter, but it does not make any difference.

Q What is your answer to that; you didn't have any subpoena from the Dawes Commission to come here and testify? A I don't know anything more about the Commission than anything in the world; he came and said he was doing government business.

Q How do you know this is in '67, how are you fixing it this time?

A From the age of my child, that is how I fix it.

Q How many children did you ever have? A I have had five in my life and only two are living.

Q What was the date that the child that you fix this date by was born on? A June 24.

Q What year? A 1866.

Q When was the next one born? A It was October 25.

Q What year? A I forget the year now, it is recorded in my bible, it was October 25, I forget the year.

Q How much older was the first child than the second one? A My boy, 7 years older. Let's see, I can say round that up, my oldest son was born June 24, I was telling you, and the next one I forget the date of the year, but it is October 25, but I forget the date of the year now, but my eldest, I have that, they are both on record right now, but I have forget the next boy, the date of the year, but I have the day of the month.

Q Well, was it the next year after June 24, '66? A After this next one, no, sir.

Q The next one, not the youngest, the next one? A The one that died, it wasn't more than 2 years between the one that died and this one I was telling you that I have the date of, October 25, there was quite a difference in their ages.

Q How much? A I can't tell you exactly but I can recollect the date of the month.

Q Can you tell the year when any child was born except the one you have just told me about? A Yes, sir, my oldest girl was born April 28.

Q What year? A That was in '85.

Q April 25? A No, it was April, it wasn't '85, there is two years between my girl and my boy.

Q Well then what year was she born in? A Must have been in '84, wouldn't that make two years.

Q You know, don't you: what was it? A I know there is two years and some weeks.

Q Well, what year was it now? A Must have been in '84 as I told you, must have been, there is two years between the two.

Q Do you swear it was? A I told you about ~~himself~~ as near the truth as I can tell you: if he was born in '86 and he is two years younger than the girl, that would make her born in '84.

Q Now when was your child next to the boy born, what date, next after the boy that was born in '86? A I told you I can't remember the date of the year, I can remember the date of the month, I forget the date of the year, it is in the bible.

Q Outside of these two you have been talking about, you can't give the dates when any one of the other three children were born, can you? A I can remember the dates of three of them.

Q Well, what about the others, do you know what years they were born in? A My oldest child was born the 28th of August.

Q What year? A I will tell you in a minute, if you wont hurry me; '87, the birth of my oldest child, it is dead, she was born August 28 of 1867, understand.

Q How many years was that before the war? A Four years isn't it, close onto.

Q Now when did you first know this woman with reference to the time your child was born? A Who, Delilah?

Q Yes; when did you first know her with reference to the time the child was born, the one that was born in '86? A I got acquainted with her of course when her father first moved to the country, she was a little girl when her father first moved and settled where he lived.

Q Well, when did you say that was? A I told you it was right about the close of the war.

Q About the close of the war; you don't know whether it was before or after? A Must have been after, because the colored people was liberated.

Q You don't know how long though? A They came there in the spring as I told you right in planting time because they came to our house to speak for some potatoes to plant, that was the first visit he made us after he moved up there.

Q How far did he live from you? A Not more than a mile, right in sight.

Q How long did he live on that place? A Lived there until he moved to the Territory.

Q How long was that? A Well, as I told you, they came the year, or the year after, that Mr. Davis came.

Q This woman was just a child then? A When they first moved there she was a little girl.

Q Well, was she a little girl when they moved away? A No, she was a mother, she got to be a woman because her child was born there because I am the one that took care of her.

Q You say Delilah was a little girl when she came there? A Well, a small girl.

Q And she moved away? A She went away with her father.

Q When was that, in '87? A I think it was in '87.

Q And she was a little girl when she went there? A When her father moved on the place there.

Q That was the spring after the war closed? A When they moved

there, yes.

Q And moved away in '67, and she was a little girl when she came there; is that right? A She was a little girl when she came there;

Q Now what was it you said about being a young woman when she went away? A She was a mother; she must have been a woman, who had that child before she moved away.

Q She did? A Yes, had that child living right up there where they lived all the time they were up there.

Q About how many years old do you think she was when they came there about the time the war closed? A Well, she might have been 10, 11, somewhere along there.

Q You think she was as much as 10? A I can't say, it is just guess work; of course she might have been more than that.

Q How old did she appear to be when she had this child, was she a young woman? A She was old enough to be a mother, I can't tell you anything about that.

Q Did she look like she was a fully developed and matured woman?

A She was large enough in size but I don't know what her age was.

Mr. Devenport: She was large enough to give birth to and raise a child? A Well, she had it, because I was with her when she child was born and took care of it.

Commissioner: What was Delilah Rowe's father's name? A Daniel Rowe.

Q You say she lived in Kansas with him in the winter of '67? A No, it was '67 when they left.

Q Maybe it was the winter of '66 then? A No, it wasn't '66 because Mr. Davis hadn't moved in '66 and he didn't go down till after Mr. Davis moved down.

Q You said that he came down before Mr. Davis, one time; you said something about Mr. Davis coming down, you said that he came down to the Nation to get his wife, didn't you say something about that; you said Mr. Rowe, the father of Delilah moved down before Davis did, and that he moved down in the winter of '67? A Davis moved first, didn't I tell you; you have got it wrong; didn't I tell you Mr. Davis moved down and wrote to Mr. Rowe a letter.

Q You say now that David moved before Rowe, do you? A Of course he did.

Q How long before? A Well, I can't tell you how long.

Q Well, didn't you say in your examination that Davis moved down you think in the winter of '67? A I said that is what I thought, I wouldn't be positive.

Q Sometime during the winter? A Yes, the fall.

Q You don't know whether it was the first part of the last part?

A No, I can't say for certain.

Q Couldn't it have been the last part of the winter of '66; you know the winter is in '66 and '67? A That is what I know, but didn't I tell you I know by my child was born in '66 and didn't I tell you the child could walk and didn't I come down to tell Mr. Davis good-bye, the child walked part of the way and that was in '67, that is what I told you in plain words, that Mr. Davis was there in '66 and '67.

Q What time was the child born? A The child was born seems to me the latter part of the winter or spring.

Q Latter part of the winter or spring of what? '66? A No, the year after he moved down.

Q I am talking about this child that you say could walk? A That is my child.

Q That is what I am talking about? A Didn't I tell you all the time he was born in '66.

Q What month? A The 24th of June, 1866.

Q How old does a child have to be up there before it is old enough to walk? A They generally walk sometime inside of a year, I would give a child a year; I told you in plain words the child was born on June 24, 1866, and if he would walk, would make it throw him into '67, I told you that Mr. Davis moved down first and wrote to Mr. Rowe

- 5 -

a letter when he was living there and Mr. Rowe brought the latter to my husband to read it, he couldn't read writing and my husband could.

Q That is the first you have said about a letter since you have been under examination in this case? A Well, that was the way of it.

Mr. Smith: Applicant objects to the testimony with reference to the letter, for the reason that the letter itself would be the best evidence.

Mr. Davenport: Is that letter you spoke of Mr. Rowe having read by your husband in your possession? A No, I guess not, Mr. Rowe took it with him.

Commissioner: Are you married? A Not now, my husband is dead.

Q Live on a farm? A Yes, sir.

Q Always lived on a farm? A Been living there since '62.

Q On the same place you are living now? A Yes, sir.

Mr. Smith: I would like to have a copy of this testimony filed in the Jack Davis case.

Commissioner: This testimony will be made part of the cases of Freedman D-749, D-750, D-752, D-837, and at the request of the attorney for the applicant, it will be also filed in the case of Jackson Davis, D-453.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 28th of October, 1901.

[Signature]

Commissioner.

FID 453

the only complete photograph of a female specimen of this species. The photograph was taken in the field by the collector, and is a very good one. The specimen was collected in the field by the collector, and is a very good one. The specimen was collected in the field by the collector, and is a very good one.

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File with O. F. D. 453, Jackson Davis.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 3, 1902.

SUPPLEMENTAL TESTIMONY OF DENNIS OF CHITONKEE NATION,
in the matter of the application of Jackson Davis et al, for en-
rollment as Cherokee Freedmen.

Appearances.

Louis P. Brown, appears for Hellette Smith, attorneys
for applicants;
W. V. Hastings, of attorneys for Cherokee Nation.

WALTER A. WEST, being sworn and examined, testified as follows:

BY MR. HASTINGS:

Q. What is your name? A. Walter A. West.

Q. What is your age, Mr. West? A. 30.

Q. Post-office is Spavinaw? A. Yes sir.

Q. You are a Cherokee citizen by blood? A. Yes sir.

Q. Mr. West, when did you settle on the Old Military Road, as you
stated in your other examination? A. I came there in May '86,
that is when I first struck the road.

Q. You settled there on the old Military Road how far from Grand
River? A. You might say at two places on the road, one was up at
Hudson's, and that same season I moved down near Cabin Creek.

Q. That was later in the fall of the same year, the fall of '86
you moved down near Cabin Creek? A. Yes sir.

Q. How far was that from Grand River? A. About 2 miles.

Q. Mr. West, do you know a colored man by the name of Jack Davis
who has got a number of sons among others Joe and John? A. Yes sir,
I know Jack Davis.

Q. When did you first see him after the war? A. I saw him in Feb-
ruary '91 first time I ever saw him.

Q. Tell the circumstances under which you saw him? A. I lived there
on the Military road at that time and kept hay to sell to travelers
and sold some to the Government the evening of the same day that
Jack Davis came there and camped nearly a quarter of a mile from
the house right on that old road, and I was at his camp that
evening and that's where I first got acquainted with him, in '89,
and there was another party with him, man by the name of Jack Bean,
his wife was my wife's servant, that is my wife was her young mis-
tress, and they come up there to live and that's how I come to
become acquainted with the whole of them. I got to inquiring
who the others was and went down there and this Jack Bean and his
wife was the whole cause of me getting thoroughly acquainted with
the outfit, there was four bunches of them altogether.

Q. What were they doing? A. They were camped there, moving from Kan-
sas, just come there, come down and got there about 2 o'clock that
evening.

Q. They were moving from Kansas? A. Yes sir.

Q. Had you ever seen Jack Davis in that neighborhood before that?

A. No sir, that was the first time ever I got acquainted with him.

Q. Had you lived there from '86 up until '91 in that neighborhood?
A. Yes sir.

Q. How far did Jack Davis locate from you? A. About three miles.

Q. On the river? A. Yes sir, on the east side of the river, near the
mouth of Cabin Creek, on the east side from Cabin Creek.

Q. In some other cases in which you were examined you had some
record or receipt showing that said date of February '89? A. Yes
sir, I got the voucher from the Government, I had that in this
court this other court, but I didn't bring it down this time.

Q And that is the reason why you fix the date that you saw them?
A Yes sir, 19th of February.
Q They were moving down and on the road and camped at your place?
A Yes sir.
Q They said they were moving from Kansas? A Yes sir.
Q That is the first time you ever saw Jack Davis? A First time
I ever saw him.
Q You well acquainted around that neighborhood I suppose? A Yes
sir.

BY BROWN:

Q You don't know when Jack Davis returned to the Cherokee Nation?
A Not any further than that.
Q You know his wife? A I saw his wife, but I wasn't acquainted
with her.
Q You know whether the wife he had then is his present wife now?
A No, I do not know whether it is his present wife.
Q At the time you claim him who was with him? A There was Jack
Bean, Sandy Bean and Tom Hayfield and his family, that was four
outfits of them together.
Q Did Jack have his wife along? A Jack Bean?
Q Jack Davis? A He had a woman along, I supposed it to be his
wife; I never went into details of which was his wife and which
was the others wives; they had some women and children.
Q He didn't tell you his wife was along? A No sir, I saw some
women in the crowd and supposed they belonged to the outfit.
Q You know Will Davis, son of Jack Davis? A Yes sir.
Q Do you know John Davis? A Yes sir.
Q Did you see them that first time? A No sir.
Q All you know is the first time you saw him was sometime in the
year '89? A Yes sir, that was the first time I got acquainted with
him, that was in February.
Q In '89? A Yes sir.

BY COMMISSIONER: This testimony will be made a part of
the record in the case at bar and also in the following
doubtful Freedmen cases: 454, 455, 456 and 457.

M.D. Green, being first duly sworn, states that as stenographer to the
Commission to the Five Civilized Tribes he correctly recorded the
testimony and proceedings in this case and that the foregoing is a
true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this February 6th, 1902.

[Signature]

Commissioner.

25463

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUN 13 1902

ASST. CHIEF

Wm. H. ...

[Circular stamp]

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 12, 1902.

In the matter of the application of Jackson Davis for the enrollment of himself as a Cherokee freedman.

SUPPLEMENTAL TO D-453.

APPEARANCES:

Mellotte & Smith for applicant.
W. W. Hastings for Cherokee Nation.

MR. HASTINGS: The Cherokee Nation offers in evidence a decision of the Supreme Court of the Cherokee Nation in 1871 as found in a book taken from the Executive Department of the Cherokee Nation entitled "Docket of doubtful cases for Cherokee citizenship tried in 1871," from Saline District, the same being No. 58, as follows:

"Jack Davis,
Decided against defendant June 8, 1871."

MR. SMITH: The applicant objects to the offer of the above matter in evidence for the reason, first, that the same is incompetent, irrelevant, and immaterial, and does not tend to prove any issue in this case; second, because it is not shown that the person mentioned in said entry is identical with the applicant herein; third, because there is no showing that any step necessary to the rendition of a valid judgment was ever taken by the Cherokee Nation, not even a showing that the applicant was before the court; fourth, because the record as offered being all of the record shows upon the face that it is insufficient to constitute any judgment or decision; fifth, because it is incompetent to prove upon the issue at bar any record or alleged record of the Cherokee Nation in the manner and form herein sought to be used.

MR. HASTINGS: The Cherokee Nation offers this judgment for the purpose of showing that it is a full, fair and free investigation of this case soon after the war when all the witnesses were alive and all the facts could have been easily brought to the attention of the court and were, and a decision at that time rendered by a court of competent jurisdiction.

MR. SMITH: And then the applicant objects for the reason that the only evidence offered herein shows just what is embodied in the record entry and asks that that fails to show that even the applicant was before the court or any witnesses.

COMMISSION: The above proceedings will be filed with and made a part of the record in the following Freedmen cases: John Davis, D-452, William Davis, D-453, Ellen Bell, D-457, and in the case of Jackson Davis, the same being the case at bar, D-453. It appears from the records of the Commission that the above applicants are represented by Mellotte & Smith.

MR. SMITH: Counsel for John D. Davis, William Davis and Ellen Bell objects to the testimony offered in the case of Jack Davis relative to the alleged record of 1871 court, being embodied in the record in either of the cases of John D. Davis, Will Davis or Ellen Bell, because the record offered in the Jack Davis case shows affirmatively that nobody except Jack Davis was a party to said proceeding and does not show that he was identical with the Jack Davis who was the father of the last mentioned applicants.

MR. HASTINGS: The Cherokee Nation contends that it is relevant in this case for the reason that all of these applicants claim in and through Jack Davis; that their case stands or falls upon him, and that he made the application to the court in 1871, only five

years after the treaty of 1866, when testimony was easily gotten in to the time of his return, and a court of competent jurisdiction there adjudged that he didn't return in time.

MR. SMITH: The counsel for the applicant moves to strike the remarks of counsel as being irrelevant and immaterial.

Arthur C. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur C. Croninger

Subscribed and sworn to before me this 28th day of May, 1902.

J. R. Renter
Notary Public.

70483.

REPORTING AND RECORDS OF THE BOARD

1. The Board of Directors of the United States National Bank, organized under the laws of the United States, and having its principal office at New York City, New York, do hereby certify that the following is a true and correct copy of the minutes of the meeting of the Board of Directors, held at New York City, New York, on the 1st day of August, 1902.

(551)

(552)

Approved and signed by the Board of Directors, this 1st day of August, 1902.

and Charles F. Smith, of the City of New York, Secretary of the Board of Directors, do hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of Directors, held at New York City, New York, on the 1st day of August, 1902.

only thing is that
the Board of Directors
has not yet decided
whether to accept or
reject the offer of
the City of New York
to purchase the stock
of the United States
National Bank.

ACTING CHAIRMAN

FILED
AUG 1 1902

THE UNITED STATES NATIONAL BANK, organized under the laws of the United States, and having its principal office at New York City, New York, do hereby certify that the following is a true and correct copy of the minutes of the meeting of the Board of Directors, held at New York City, New York, on the 1st day of August, 1902.

A. A. HARRISON

REPORTING AND RECORDS OF THE BOARD

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERCY ADAMS for enrollment
as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by
W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified
copy of the decree of the Court of Claims in the case of
Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation,
No. 17209, filed in the Mariah Hayden case F D 493, a part of the
record in this case and the cases hereinafter mentioned by refer-
ence to the said case of the said Mariah Hayden, and if it be deemed
necessary that a copy of the said decree be filed in this case and
in the following cases, to-wit:

Jackson Davis, D 453;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the intro-
duction of the decree because, First: It does not tend to show
that the applicant was a slave of the Cherokee Nation at the
beginning of the war, nor that he returned within the time specified
in the treaty of 1863, or that he had been a continuous resident of
the Cherokee Nation since that time, or that he is a descendant of
such a person. Second: Because the same is incompetent, irrele-
vant and immaterial, and does not tend to prove an issue in this
case. Third: Because the Commission will take judicial knowledge
of all laws, treaties and decrees necessary for the determination
of the right of any person who makes application for citizenship.
Fourth: The Cherokee Nation objects to the filing of a certified
copy of this decree in the case of an applicant unless the same
is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be
entertained and the decree of the Court of Claims filed in the case
of Mariah Hayden will be made a part of the record by reference in
all the cases above named with the exception of those which come
within the provisions of the temporary injunction recently granted
by Judge Gill of the United States Court, of the Northern District
Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named
cases including the Mariah Hayden case that counsel for the appli-
cants be allowed within thirty days to file any of the proof of any
or all of the record other than the decrees already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothemberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

7, A-453

FILED
JAN 19 1905
COMMISSION TO FIVE TIMES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of
Jackson Davis, et al., as Cherokee freedmen, consolidating the
applications of:

Jackson Davis, et al	Cherokee Freedmen D 453,
Sallie Whitmire, et al.,	Cherokee Freedmen D 454,
John D. Davis	Cherokee Freedmen D 455,
William Davis,	Cherokee freedmen D-456;,
Ellen Bell, et.al.,	Cherokee Freedmen D 457,
Mannie Bean,	Cherokee Freedmen D 740.

---:--

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, INDIAN TERRITORY, DECEMBER, 22RD, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Charlotte French, as a Cherokee Freedman.

It appears from the record herein that on December 1, 1904, the applicant, Charlotte French, was notified by register letter and on the 5th day of December, 1904, the attorneys for the Cherokee Nation were notified that an opportunity would be given each of them to appear before the Commission at its offices in Muskogee, Indian Territory, on Friday, December 23, 1904, and introduce testimony touching the applicants right to enroll, at which time this case will be taken up for final hearing. On this 22nd day of December, 1904, the applicant appeared by her attorneys, Blue & Bulger, the Cherokee Nation by its attorneys Bell, Hastings & Davenport.

Aaron Whitmire being first duly sworn, testified as follows:

BY MR. HASTINGS:

Q What is your name? A Aaron Whitmire.

Q How old are you? A 69

Q What is your postoffice? A Coody's Bluff, Indian Territory.

Q How far is Coody's Bluff from the Verdigris River?

A Half a mile.

Q How far do you live from Lightning Creek? A I live three miles from Lightning Creek.

Q What direction? A West.

Q Do you live in the Cowassawnee District? A Yes, sir.

Q How far north of Chelsea do you live? A About four miles.

Q Have you lived in that vicinity ever since you came there after the war? A Yes, sir.

Q Are you living on the same place you originally settled? A Yes right on the same place.

Q How far is Big Creek from where you live? A Well it is about eight miles.

Q Does Big Creek flow into the Verdigris River? A Yes, sir.

Q And about eight miles from where you live? A No, it hasn't that far, the water flows in the river about four miles from where I live.

Q What direction is it from where it flows in the Verdigris River?

A Northwest.

Q Does Snow Creek empty in the Verdigris River north of where you live? A Yes, sir.

Q Between where you live and the Kansas line? A Yes, sir.

Q There are at present a great many colored people living on the Verdigris River, Big Creek and Snow Creek? A There are a great many living there.

Q Were you a slave before the war? A Yes, sir.

Q Where did you live? A I lived in Otingmaho.

Q Are you a brother of Louis Whitmire? A Yes, sir.

Q Are you a brother of Moss Whitmire? A Yes, sir.

Q You know them of course before the war? A Yes, sir before the war.

Q Did you know them and were with them during the war? A Yes sir

Q Where did you go during the war? A I went to Fort Scott, Kansas.

Q Were you in the army? A I wasn't exactly in the army, I was working for the government though blacksmithing.

Q Did your other brothers also work in the army? A They drove teams.

Q Did you know old Sam and young Sam Webber before the war?

A I knew the old man before the war.

Q When did you get acquainted with young Sam? A In time of the war.

Q In the state of Kansas? A Yes, sir.

Q Did you know Mike, Sam, Ruben and Dan Sanders? A Yes, sir.

Q Did you know them during the war? A Yes, sir.

Q Where? A Fort Scott, Kansas.

Q Well at the time the war closed where were you and all of these other parties, including your brothers, Sanders and the Webbers when the war closed? A Fort Scott, Kansas.

Q You are a recognized and enrolled Cherokee Freedman, are you not? A Yes, sir.

Q When did you make the first trip to the Cherokee Nation after the close of the war? A I made the first trip in August, 1866.

Q In August, 1866? A Yes, sir.

Q Well now who came along with you in August, 1866? A Well the old man Sanders.

Q What was Sanders' name? A Mike Sanders.

Q Was he the father of Ruben and Dan? A Yes, sir.

Q Who else came with you? A Old man Webber, old man Sam Webber, old man Billie Foreman, Peter Heigs, Mose Whitmire, Nelson Whitmire, Louis Whitmire and Dennis Whitmire.

Q Where did you go? A We came to Big Creek.

Q How long did you stay on Big Creek? A We stayed there two or three weeks, I don't just recollect, I don't know how long, some two or three weeks.

Q Did any women or children come with you at all on that first trip? A No, sir.

Q Where did you go down Kansas and enter the Territory, at what point? A We came right to Osage and out to where Chatoga is now and turned west and went to Big Creek.

Q And then came down Big Creek? A Yes, sir.

Q Was there a single house anywhere in the Cherokee Nation along Big Creek at that time? A There wasn't nary one for a mile on Big Creek.

Q Was there anyone living on Big Creek in the Cherokee Nation at that time? A No, sir.

Q Was anybody living on Snow Creek at that time? A No, sir.

Q Did you see anybody living on the Verdigris river at that time?

A Yes there was somebody living along the river, along the Verdigris.

Q Who? A Old man Riley.

Q Was he a Cherokee? A He was a Cherokee, and Carter, he was a Cherokee and John Coker, he was a Cherokee.

Q Well were there any colored people on the Verdigris river at that time? A No, not that I seen.

Q You stayed around there in that country some two or three weeks?

A Yes, sir.

Q Well what did you do then? A We went back to Fort Scott.

Q That was the first trip that was made by any of the colored people up there, as far as you know, to the Cherokee Nation after the war? A Yes, sir.

Q That was what was said at the time? A I know that was what they said, there may have been a few come before that and went the other way by Granville.

Q Well now when was the second trip made. A That was made in December sometime.

Q Of 1866? A Yes.

Q Now who came with you on the second trip? A Ransom Daniels, Solomon Foster, Dick Whitmire.

Q Was that old man Dick Whitmire? A Yes sir, and Sam Beck.

Q Were there any Creeks or Choctaws? A Some Creeks and Choctaws.

Q What became of them? A They went on down.

Q Into their own country? A Yes, sir.

Q Well did you go over practically the same country the second trip that you did over the first? A We didn't go over all the same country, we went over some of it, we done a little work.

Q Well at that time were there any colored people living in any of that part of the country known as Big Creek and Snow Creek country and the Verdigris River? A No, sir.

Q What work did you do in August, 1866? A Put up some houses.

Q Just put up the logs? A Yes, sir.

Q What did you cover them with? A We covered two or three of them, two I believe.

Q Covered you think about two of them? A Yes, sir.

Q But the rest were just the bodies of the houses? A Yes, sir.

Q You didn't put in any fields at that time? A No, sir.

Q Well when you came back in December you come to these same places where you had started your claims before? A Yes, sir.

Q Well how long did you stay there in December, '66? A I stayed there about four days.

Q Where did you go then? A I come to Fort Gibson from there.

Q Where did you go from Fort Gibson? A Geingsanake.

Q What became of those who were with you? A They went back to Fort Scott, Kansas.

Q After going to Geingsanake did you return to Kansas or Fort Gibson? A Yes, sir.

Q About what time of the year did you go back to Kansas? A It was near Christmas time, I don't just recollect what time.

Q Do you remember of the circumstances of Dyer Hayford being killed? A Yes, sir.

Q Did you know Hayford? A Yes, sir.

Q Where were you when he was killed? A Fort Gibson or Tahlequah.

Q On this second trip? A Yes, sir.

Q He was killed when you returned? A Yes, sir.

Q Did you know Eli Mackey, a colored fellow, who killed him?

A Yes, sir.

Q Now did any women or children go with you to the Cherokee Nation on this second trip? A No, sir, none at all.

Q Well when did you return to the Cherokee Nation finally the third time? A It must have been in March sometime.

Q The following March of '67? A Yes, sir.

Q Well who came with you that time? A Well Sanders, old man Sanders, Mike Sanders, Peter Neigs, Billie Foreman, Tuck Sanders, Ruben Sanders.

Q Well did Louis Whitmire come with you that time? A No, he didn't go that time.

Q Where was he? A Fort Scott.

Q Did Dennis come that time? A No, sir.

Q Did this preacher, Joe Ross, come that time? A No, sir.
Q Well did Sam Webber come that time? A No, Sam didn't go.
Q Well how long after you come before Sam moved down here?
A A couple of weeks I guess, maybe not quite so long, a short time.
Q Do you remember the circumstances as you were leaving to come here about Eli Mackey going to jail for the murder of Dyer Hayworth and there being considerable excitement when you passed through?
A Yes, sir.
Q Were the Sanders boys along on that trip? A Yes, sir.
Q And you say now that Sam Webber didn't bring his family when you came but a couple of weeks after? A Yes, sir.
Q Well now when you did move your families down to where you located were there any colored people living in that part of the country? A None that I know of.
Q Were there any on the Verdigris River or the Lightning Creek country or Snow Creek or Big Creek country? A None that I ever heard of or seen and I traveled a good deal through the country.
Q Where did you do your trading when you first came from Oswego?
A At Old Parker some.
Q Now in order to go to Oswego you had to go from your place north up from Big Creek and Snow Creek country? A Yes, sir had to go north.
Q There were no fields there in '66? A None at all.
Q Wasn't no corn planted or crops raised that year? A No, sir.
Q Did you plant some crops in '67? A Yes, sir. We had crops in '67.
Q But before that none were put in by the colored people at all?
A Not that I know of.
Q Well do you know Ben Alberty? A Yes sir, I knew Ben before the war.
Q Did you know him after the war? A I never seen him but once after the war that I know of.
Q Well did you know before the war that he located on the mouth of Snow Creek? A Yes I knew about the place.
Q Well was he living there when you moved down here in March of '67? A No, sir.
Q Well now how long after that that Ben Alberty moved down in the Cherokee Nation? A It must have been sometime in '68, nearly '69 somewheres along there.
Q And you know he wasn't there when you first moved? A Yes, sir. He wasn't there.
Q You know John Landrum? A Yes, sir. I know Jack Landrum.
Q Well now when did Jack move his family down here? A Well I don't recollect just what time Jack did move there.
Q It was after you moved there? A Yes, sir.
Q He wasn't living there in '66? A No, sir.
Q Did you know him in Kansas? A No, I never saw Jack in Kansas at all.
Q Did he marry some relation of yours? A Yes a sister.
Q Were they married in Kansas or in this country? A In Kansas.
Q After the war? A Yes, sir.
Q Were they married when you left there with your family?
A Before that, before I left.
Q But he didn't move down with his wife until after you came down?
A No, sir.
Q How long was it after you moved down the third time until Jack came? A It must have been in '68, somewheres along there when they come to where I lived.
Q Well how far did they settle from you? A About three miles.
Q Then there was no women or children come on any of these trips

until you moved down in March '67? A No, sir not until we moved.

Q You are the same man who is known as Aaron Whitmire who testified before the Chambers Court in '78? A Yes, sir.

Q And Louis Whitmire and Moses Whitmire who were admitted to that court were your brothers? A Yes, sir.

Q You at that time had for your witnesses Blue Alberty, William McCracken and others, did you not? A Yes, sir.

Q You stated in your application at that time, and your witnesses stated for you the same facts that you stated here, to-wit; that you returned with your family and moved down here in the spring of '67? A Yes, sir.

Q That is all true, is it not? A Yes, sir, that is the truth.

Q Well now Sam Webber never moved down here until the spring of 1867? A No, sir.

Q And young Sam didn't come with his father in August, 1866?

A Yes he came in '66 with his father.

Q Did he go back? A He went back, yes sir.

Q Did he come back in December, 1866? A I don't recollect now whether young Sam was along in December or not.

Q But you remember distinctly that he moved down here some two or three weeks after you did? A Yes, sir.

Q How far did the Webbers settle from you when they came down in the spring of '67? A It is about six or seven miles from where I live.

Q You knew them well did you? A Yes, sir.

Q Had you seen them in Kansas before the war and before you moved down here? A Yes, sir.

Q About how far did they live from you in Kansas? A About 20 miles I think.

Q Did you live in the town of Fort Scott? A Yes, sir, I worked there in town.

Q Blacksmithing? A Yes, sir.

Q I believe that you stated that you knew Dyer Hayford, what was his business? A He had a grocery store and sold groceries.

Q Did you buy goods from him? A Yes, sir.

Q You stated that you knew Eli Mackey? A Yes, sir.

Q William McCracken says he met you in December, 1866, in December, before the Chambers court, did you meet him that year? A Yes, sir.

Q Were your brothers with you? A No, they wasn't with me then, I left them on the Verdigris River, I met McCracken down at Fort Gibson.

Q Did you tell him where you were going? A Yes, sir.

Q What did you say? A Told him I was going to Goingsnake.

Q As I understand you you went to Goingsnake by the way of Thalequah and came back by the way of Fort Gibson and then went to Kansas and got back to Kansas sometimes during Christmas week?

A Yes, sir.

Q Which was after Hayford was killed? A That was after Hayford was killed.

BY THE COMMISSION:

Q During the war Mr. Whitmire, you colored people settled in Fort Scott in the same neighborhood, did you? A Not exactly

Q Well you know one another quite well? A Yes, we know one another.

Q Refugees from the territory who had gone out during the war?

A Yes, sir.

Q You were acquainted reasonably well were you not, with all of the parties who came down in that first crowd in August of '66?

A Well yes sir.

Q You know all the parties in that crowd? A Yes sir,

Did you give all the names of those you can remember in response to Mr. Hastings's questions? A All I can remember, yes sir.

Q What was your purpose in coming that first trip, Mr. Whitnair?

A Come to make houses.

Q You come down to build some houses? A Yes, sir.

Q How did you go to the territory, wagons or horseback?

A Come in wagons.

Q What kind of teams did you have? A Some had mules, some horses and some oxen.

Q Did you have a family at that time? A Yes, sir.

Q A wife and some children? A Yes, sir.

Q But you left them in Fort Scott? A Yes, sir.

Q It was the understanding, was it, that you people were to come here and start some houses before going back to Kansas for your families? A Yes, sir.

Q Who did your cooking on that trip? A Well the boys done the cooking.

Q Did you bring along any women at that time to do the cooking?

A No, sir.

Q You are positive that there were no women at all in this crowd, are you? A No women that I recollect and no children.

Q Well you would have remembered it, wouldn't you? A Yes, sir, I think so.

Q It was a pretty wild country here at that time? A It was a wild country, yes sir.

Q Well now when you came down in December the second time for what purpose did you come? A We come down to work on our places.

Q You left your family at Fort Scott on your second trip?

A Yes, sir.

Q Were there any women in that crowd who came down in '66?

A No, sir.

Q There were none? A None.

Q How did you come the second trip? A In wagons.

Q At that time, in the fall of '66, did you have some brothers and sisters? A Yes, sir.

Q All of your brothers came with you in the fall of '66?

A Yes, Lewis, Dennis and Nelson.

Q Did you have some sisters living at that time? A Yes, sir.

Q What were their names? A The eldest was Mariah, Polly Ann, Mary Ellen.

Q Where did you leave them on your first and second trips to the Cherokee Nation? A I left Mariah at Lawrence and Polly Ann at Fort Scott with her brother Dennis and I don't know where Mary Ellen was.

Q Did your sister, Polly Ann, come with you when you came in the spring of '67? A No, she came with her brother Dennis.

Q How long after you came until Polly Ann came with Dennis?

A About two or three weeks as near as I can recollect.

Q That was the first time, was it Mr. Whitnair, that Polly Ann had been in the Cherokee Nation after the war, so far as you know? A Yes, sir, Polly Ann was a girl then staying with her brother Dennis, she wasn't of age, she was staying with Dennis and living with him.

Q And she didn't come with Dennis in the fall of '66? A No she didn't come with Dennis when he came before.

Q She stayed with his family in the town of Fort Scott, Kansas.

A Yes, sir.

Q Was little Sam Webber married when he come down here with his father in '66? A Yes, sir.

Q Where was his wife? A She was in Kansas.

Q Was there any woman come with little Sam Webber when he come on either of these trips in '66? A No, sir.

Q Well Mr. Whitmire, if any woman claims to have come down here in August or December, 1866 with this detachment of which you were a member, she is mistaken? A Yes, sir, she is mistaken.

Q You are positive that there were no women or children on either of these trips? A Yes, sir.

Q You were a grown man then weren't you? A Yes, sir.

Q And you are an intelligent fellow who would remember, wouldn't you, Mr. Whitmire? A Yes, sir.

Q And you remember that no women or children came with you on either of these trips? A No, sir, not one.

Q You have been acquainted with all these parties since your removal to the Cherokee Nation, have you Mr. Whitmire? A Yes, sir.

Q Known where they have lived and all about them? A Yes, sir.

BY MR. HASTINGS:

Q Wasn't it a fact that the Chambers Court admitted all of you people who made this first and second trip here to the Cherokee Nation that applied to the Chambers Court and introduced this testimony? A Yes, sir.

Q The Cherokee Nation or its authorities never did deny you did that? A No sir, never did.

BY MR. BULGER:

Q Mr. Whitmire when you started from Fort Scott to the Cherokee Nation what road did you take? A I come right down by Lightning Creek, what is called Lightning Creek, crossed over at Oswego and come down by Sapulpa and there we turned west and went over to the head of Big Creek.

Q How far down Big Creek did you go and where did you settle?

A We come down I guess eight or ten miles from the head to where we live.

Q Did you go north of where Centralia now is? No, sir west of where Centralia now is.

Q Well did you settle on Big Creek? A No, on Salt Creek, that is below Big Creek.

Q Which direction did you settle from Nowata? A Southeast, pretty high east.

Q Were you on Snow Creek, did you go down Snow Creek during that first trip? A No, sir.

Q Were you on Snow Creek? A I have been on Snow Creek.

Q How long were you there about four weeks? A No, not that long, not then.

Q Do you know whether or not anyone lived on Snow Creek? A No-one that I know of.

Q How do you know if you wasn't there? A I was there, but I didn't see anybody on Snow Creek or anybody living there.

Q When in August, '66? A Yes, sir, after that.

Q Where were you going when you passed Snow Creek? A By old Tahlequah and different places there, Westralia.

Q Did you have to go by Snow Creek to go by Westralia?

A Yes sir, it was an old trading post up there near old Tahlequah, east of Tahlequah on Pumpkin Creek.

Q How far was Westralia from where you was building these houses?

A About twenty miles.

Q Which direction? A East.

Q Which side of Big Creek is Westralia on? A On the west side of Big Creek.

Q Which side of Snow Creek? A On the west side of Snow Creek.

Q Which side of the Verdegris? A On the east side of the Verdegris.

Q Where were you going when you went through Westralia? A Going to old Tahlequah, I had started to different places up there going to Westralia to trade sometimes during the past.

Q Then when you come to the Cherokee Nation that time you started at the head of Big Creek, went south down seven or eight miles where it runs into the Verdegris? A Yes sir, all the way from the head of Big Creek to where it runs into the Verdegris.

Q And settled on the southeast side of Big Creek where it turns around there into the Verdegris? A Yes, sir.

Q And there you built some houses? A Yes, sir, our houses was on Salt Creek about four miles from the mouth of Big Creek where it empties into the Verdegris.

Q When did you build there? A In '67.

Q Then where was it that this crowd that came in August of '66 built their houses? A They built them on Big Creek. It was about six or eight miles above where I live.

Q Did you find your location where you built some houses in '66? A Yes, sir.

Q But you didn't erect any buildings there until '67? A No, sir.

Q Who built those houses in that first '66 settlement? A Sam Webber built one, old man Webber and old man Mike Sanders and old man Meigs.

Q Did you have to cut trees down and hew these logs out? A We cut the logs down and hewed them out.

Q What did you cover these houses with? A Beards.

Q Where did you get the lumber? A It wasn't lumber boards, it was elab boards.

Q You was there four weeks? A Yes, sir.

Q You came to the Cherokee Nation, built these houses and went back to Fort Scott, when did you go back to Fort Scott? A I don't recollect just exactly what time I did get back on the first trip, I don't recollect.

Q How long did you stay down in the Cherokee Nation when you were down here? A Two weeks that time.

Q The first time? A Yes, sir.

Q During those weeks you built several houses? A Yes, sir.

Q Visited around different settlements on Snow Creek? A There wasn't no settlements that we looked around, we saw the country.

Q What was your idea in looking at the country when you had located and built your houses? A We wanted to see if there was any place better.

Q Moved your houses would you? A The houses were just logs and we could have got more if we had found a better location.

Q Well then you returned to the Cherokee Nation in December?

A Yes, sir.

Q What way did you come that time, what road? A We come pretty nigh the same road as we come the first time, by Lightning Creek.

Q Came down by Lightning Creek? A Yes, sir.

Q Came down by Big Creek? A Yes, sir, Big Creek.

Q Stayed right close to the river? A Come to where we started our buildings.

Q Did you stay down in the bottom along Big Creek? A Yes, sir, we come along the bottom.

Q Now Mr. Whitmire, in August when you folks come down there, did you stay in the bottoms or get out on the grass? A No, we didn't exactly stay in the bottoms, we would go out on the prairie and look around.

Q Wasn't there great high grass in the bottoms that time and made it difficult to travel through? A Yes, sir, there was grass there.

Q Wasn't the grass a little short on the prairie? A Yes, sir.

Q And for that reason you stayed out of the bottoms on the way down? A No, we went in the bottoms.

Q You didn't travel down in these bottoms all the time did you? A No, sir.

Q You didn't travel in that big grass did you? A Yes, sir in places.

Q What did you have, wagons? A Wagons and teams.

Q What kind of horses did you have? A Some mules, some horses and some oxen.

Q But now what was your object in traveling in that high grass that big blue stem, instead of going on the prairie? A It was a good place, that was the object, if you was looking for a location you wouldn't go out on the prairie to hunt it.

Q Did you know where you was going when you left Fort Scott? A Yes, sir.

Q You had been in that country before the war? A No, I never was in it until after the war.

Q Were there any other crowds of Freedmen that come out from Fort Scott after August 1866, before you came in December? A Why, I don't know that.

Q You don't know? A No, sir.

Q Did Bill McCracken and Levi Dougherty and these fellows live in that country in those days? A No, sir.

Q Did you ever see them there? A I never seen them there, Bill McCracken lived on Flat River and Eli lived on Pryor Creek.

Q Where did Blue Alberty live? A On Pryor Creek.

Q When you came down in December, 1866, how long did you remain in the Big Creek country? A Four days.

Q Then where did you go? A Fort Gibson. Up to Goingsmake and then to Tahlequah.

Q And returned the same way? A I returned the same way.

Q What time did you go to Fort Scott? A About Christmas time.

Q How were you traveling those times? A Teams.

Q How long did you stay in the Goingsmake neighborhood? A Two weeks and stopped at Tahlequah three or four days.

Q Did you stop any length of time at Fort Gibson? A Four days, I think, maybe longer, I don't know exactly, four days or a week.

Q You left Fort Scott in December? A Yes sir.

Q Returned sometime during Christmas holiday week, between Christmas and New Years? A Yes, sir.

Q Stayed four days in Indian Territory? A Three or four days in Gibson.

Q Stayed a couple of days in Tahlequah and Goingsmake? A A couple of weeks.

Q Stayed a couple of week in Tahlequah and Goingsmake and got back there about the first day of January? A I don't know whether the first day, I guess it was about the first.

BY MR. HASTINGS:

Q How long after you came the last time before Louis moved down, your brother Louis? A I guess it was two or three weeks, I don't recollect just exactly.

Q But even at the time you moved there were no families at that time living anywhere in the section of the country? A None at all, Old man Riley the closest that I knew and I lived four miles from him.

Q In the Cherokee Nation? A Yes, sir.

Q Well I meant when I asked the question there were no colored people? A No.

Q You were the first people? A First ones that I knew of.

Q And you came down some two weeks before the Webbers moved there.

A Yes, sir.

Q And the Sanders family came with you? A Yes, sir. Sanders and Meigs.

Q Did they live about Fort Scott? A Yes, sir. Sanders lived there and Meigs lived there.

BY MR. BULGER:

Q Now Mr. Whitmire when you came down in December did you go directly to your places that you had located in August? A Yes.

Q Didn't scout around over the country like you did in August?

A No, sir.

Q Did you know of anybody who lived in the Snow Creek country or up in the Big Creek country, except in that immediate neighborhood where you went? A I didn't know for certain.

Q Now when you were on this trip to Goingsmake, how did you go?

A Wagon and two mules.

Q You say little Sam Webber came with you in August? A Yes, sir.

Q And he was married before this? A Yes, sir.

Q Did he return with you in December? A Yes, sir.

BY MR. HASTINGS:

Q Well you know that there was nobody living on Snow Creek after you moved down here in the spring of '67 because you had occasion to go back and forth up there? A I was up there from two to three weeks, had to go up to the little trading post at Oswego and get provisions.

Q And you saw nobody living in that section of the country?

A No, sir.

Q Well now the first trip you came I judge you traveled considerably over all of this country hunting a suitable place to locate?

A Yes, sir.

Q Well neither of the Webbers or none of the rest never did mention having been back to that section of the country before that in August? A No, sir.

Q None of them had been there before? A No, sir.

Q And there were no women on the first or second trips and no children? A No, sir.

BY MR. BULGER:

Q When you came down in December did you stay down in the bottoms close to Big Creek? A Yes, sir right in the bottoms.

BY MR. HASTINGS:

Q You had been game hunting a good deal of the time at that time had you? A It was all we had to eat.

Q And that made you go round in these bottoms in search of game?

A Yes, sir.

JAMES M. KEYS being first duly sworn testifies as follows:

BY MR. HASTINGS:

Q What is your name? A James M. Keys.

Q What is your age? A 62.

Q Are you a Cherokee citizen? A Yes, sir.

Q Where were you living when the war closed? A I was down south in the Choctaw Nation.

Q When did you return to the Cherokee Nation? A I came to the Cherokee Nation in June, 1866.

Q When did you first have occasion to visit Cooweescoowee district or that part of Cooweescoowee known as the Snow Creek, Big Creek and Verdigris country? A In the winter of 1867. I had a large bunch of cattle near Claremore, Indian Territory and in the spring of 1868 we had lost some cattle and there had been another herd of cattle near where I had these cattle I had charge of and they drove them in the direction of Kansas and I followed these cattle on the east side of the river to Coody's Bluff and crossed over at Coody's Bluff and stayed all night and in the morning came on the east side and followed up on the Verdigris River to Snow Creek and found the bunch of cattle I was following.

Q How far from the Kansas line? A Well, I couldn't say, it was right near the Kansas line.

Q They were near the Kansas line? A Yes, sir.

Q Then you had occasion to go up to the Verdigris river from where it flows out of Kansas into the Cherokee Nation? A Yes, up as far as Snow Creek.

Q How did you see any colored people along the Verdigris river and Snow Creek on that trip? A Well after leaving Coody's Bluff and going north on the east side of the river I didn't see a single house or habitation of any kind along the river, and I followed as close to the river as I could.

Q You were in search of this bunch of cattle and you were looking to see if you could find any people? A Yes, it was a wild country then and I would have been glad to have seen any house.

Q Were there any people living on Snow Creek at that time?

A I didn't see a single house.

Q Did you know where Ben Alberty claims to have settled? A Yes I knew where the old place is.

Q How far did you go from the old Ben Alberty place on this creek?

A My best judgement is in the neighborhood of one mile.

Q How far did you pass from it when you went up? A I went right up Snow Creek until I could see the cattle on the other side and followed right up the Verdigris river until I came to Snow Creek.

Q And you could see no persons living in that section of the country? A No evidence of any habitation outside of the cattle down where the cattle were.

Q And you could see them at once? A I saw them at once.

Q How large a stream is Snow Creek? A Just a small stream.

Q Just a little branch? A It is a little creek with some timber that runs out of the Verdigris and heads toward Kansas.

Q How far a few miles in the Cherokee Nation? A Yes, sir.

Q And you saw no colored people at all on that trip? A No evidence of any habitation or anything.

Q And you never heard of any people who had seen the cattle?

A No, about half way between Coody's Bluff and Snow Creek I met two men and they told me no-one lived there.

Q They had seen this herd of cattle? A Yes they had seen the

cattle and had been to a town in Kansas, Osage, I knew them, they were two Cherekees.

Q Did you make any inquiries as to whether there was any settlement or not? A Yes, so I could stay all night.

Q Do you think it would be possible for Ben Alberty to have lived where you knew he afterward settled without your seeing his house? If he had lived there when you went up Snow Creek in search of these cattle you would have seen his house? A I don't think so, if there had been any house I would have seen it.

Q Which way did you go back? A I came back the way I went, along the river.

Q Did you take charge of these cattle? A No sir, I left them in the herd, it was a long ways from where I was located and I left the cattle there until I came back.

Q You didn't go across to Salt Creek where Aaron Whitmire lives?

A No, sir, I followed the Verdegris circle.

Q You left the Whitmire settlement to the east of you? A Yes some miles to the east.

Q And that is the reason why you didn't see their settlement?

A Yes, sir.

Q Did you follow Big Creek? A Not any distance.

Q Big Creek flows in the Verdegris river? A Yes, sir, a little north of Coedys Bluff.

Q Instead of following Big Creek you went up the Verdegris river?

A Yes, sir.

Q But when you struck where Snow Creek flows into the Verdegris you went up Snow Creek? A Yes a little, the cattle were between the river and Snow Creek on the north side and I followed the creek until I could see them on the other side and crossed.

BY MR. RULGER:

Q When was this Mr. Keys that you made this trip in April or May?

A In April or May of 1868.

Q Where did you strike the Verdegris river when you started?

A I went near Claremore and went from there to Coedys Bluff the first day.

Q On the east side of the river? A Yes Coedys Bluff is on the east side of the river. I stayed all night with Leemey Riley.

Q Where did you cross the Verdegris River to go to the Snow Creek country? A I crossed it the next morning and went right up the river, there was considerable timber along the Verdegris at that time.

Q About the same as now? A Yes, sir.

Q How far out from Snow Creek did you stay when you went across the country for these cattle? A Not a great ways, I don't think it was more than from a half a mile on the east side of Snow Creek.

Q Is there any timber on Snow Creek? A Yes, sir, there is a little timber along there.

Q You didn't go on the east side of Snow Creek until after you had crossed that time, you went right across? A We followed up on the east side and crossed over to the west side and went to the herd of cattle.

Q How far up did you go until you crossed? A Well I couldn't say, a mile and a half or such a distance.

Q Do you know whether or not there was anyone living down on the fork where Big Creek flows into the Verdegris? A I saw no evidence of any settlement or habitation and I paid pretty close

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attention and didn't see anyone living there.

Q But you don't know that there was no one living there? A I couldn't say positively.

Q How far east did you continue to go up Snow Creek? A Well I went right up the Creek, followed right up the river until near the mouth of the creek and then went up the creek about a mile and a half.

Q Never did go any farther? A No crossed there to the bunch of cattle the creek was running northeast at that point.

Q The cattle were on the northeast part of the prairie? A Yes, sir.

Q About how far? A One half mile or somewhere along there.

Q After you found those cattle did you return to Claremore? A I just rode into the bunch of cattle and then I turned and went back down the river.

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The Cherokee Nation asks that the testimony taken of Aaron Whitmire and James M. Keys on this date be made a part of the record in the case of Frank Love, P. D. 879; Sarah Robinson, P. D. 476; Larkin Powell, P. D. 475; Polly A. Canard, P. D. 814.

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Opal Griggs being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes she reported the above and foregoing proceedings had on the 23rd day of December, 1904, and that the above is a full, true and correct transcript of her stenographic notes thereof.

Opal Griggs.

Subscribed and sworn to before me this 31st day of December, 1904.

Charles T. Sawyer
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

afms

In the matter of the application for the enrollment of Jackson Davis, et al., as Cherokee Freedmen, consolidating the applications of:

Jackson Davis, et al.,	Cherokee Freedmen D 453,
Sallie Whitmire, et al.,	Cherokee Freedmen D 454,
John D. Davis,	Cherokee Freedmen D 455,
William Davis,	Cherokee Freedmen D 456,
Ellen Bell, et al.	Cherokee Freedmen D 457,
Mannie Bean,	Cherokee Freedmen D 740.

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D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by Jackson Davis for himself and wife, Caroline Davis; by Sallie Whitmire for herself and minor grandchildren, Helen, Sarah, John, Jodie and Charlie Ward; by John D. Davis for himself and wife, Katie Davis, by intermarriage. As the application for the enrollment of Katie Davis as a Cherokee freedman by intermarriage has heretofore been disposed of, she will not be embraced in this decision; by William Davis for himself; by Ellen Bell for herself and minor children, John O., Nora, Charlie (Jr.), Carrie, Buddie H., Sarah and Julia Blackburn; and by Mannie Bean for himself. The testimony of Elizabeth Jane Morris taken October 14, 1901, at Vinita, Indian Territory, in re application of Delilah Rowe, et al., for enrollment as Cherokee freedmen, case No. D 748, and of Aaron Whitmire and James M. Keys taken December 23, 1904, at Muskogee, Indian Territory, in re application of Charlotte French for enrollment as a Cherokee freedman, case No. D 1012, is filed herewith, and made a part of the record in this case.

THE EVIDENCE IN THIS CASE SHOWS: That the applicants, Jackson Davis, Caroline Davis, Sallie Whitmire, John D. Davis, William Davis and Ellen Bell, were the slaves of Cherokee citizens at the commencement of the Rebellion; and that they were taken

from the Cherokee Nation during said Rebellion and did not return thereto and establish a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to said Nation.

The evidence further shows that the minor applicants, Helen, Sarah, John, Jodie and Charlie Ward, are the children of one Howard Ward, a non-citizen of the Cherokee Nation, and Julia Ward, nee Bean, deceased, who was the daughter of the applicant, Sallie Whitmire, and one Ben Bean, deceased, was born since 1864, and was a full sister of the applicant, Mannie Bean; and that the minor applicants, John O., Nora, Charlie Jr., Carrie, Buddie H., Sarah and Julia Blackburn (Blagburne), are children of the applicant, Ellen Bell, and one Charlie Blackburn (Blagburne) Sr. In Cherokee Freedman D. 275 (R 216), the said Charlie Blackburn (Blagburne) Sr., was denied enrollment as a Cherokee freedman, by the Commission, and on October 10, 1903, its action was approved by the Department.

The evidence further shows that the applicant, Mannie Bean, is a son of the applicant, Sallie Whitmore, and one Ben Bean, deceased, was born since 1866, has been given ample opportunity, but has failed to appear before the Commission and establish whether or not he possesses any rights to enrollment as a Cherokee freedman through his said father. Consequently his application is brought within the rulings of the Department in the cases of Eliza Bryant et al., (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan, et al., (I.T.D. 1470-04), Samantha Chambers, (I.T.D. 2296-04), Ed Williams, (I.T.D. 4230-04), and Martha Albert et al., (I.T.D. 4732-04).

It is further shown that when the applicant, Mannie Bean, was about ten or eleven years old, his father, Ben Bean, since deceased, taking with him his family, removed from the Cherokee Nation, and for fifteen years continuously lived outside the limits of the Indian Territory, and that during said period said applicant, Mannie Bean, remained a member of and resided with, his father's family.

The evidence further indicates that subsequent to the family's removal from the Cherokee Nation, the said Julia Ward, nee Bean, now deceased, became the wife of one Howard Ward, a non-citizen of the Cherokee Nation, and that for a number of years they continuously resided in the State of Missouri, where their four oldest children were born, the youngest of which was three years old in 1901.

In view of these facts it is considered that even though the said Ben Bean, deceased, Julia Ward, nee Bean, deceased, and the said applicant, Mannie Bean, may have been at one time freedmen citizens of the Cherokee Nation, they have since forfeited their citizenship in said Nation, under Section II, Article I, Cherokee Constitution, which, in part, provides:

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease;"

None of the applicants herein nor the said Ben Bean, deceased, or Julia Ward, deceased, can be identified on the Cherokee authenticated tribal roll of 1880, or the Cherokee census roll of 1896.

In re testimony as to return to the Cherokee Nation after the close of the war, of Jackson Davis and family, and Caroline Davis:

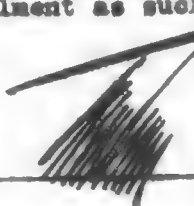
The applicant, Jackson Davis, experiences some difficulty in identifying his place of residence in the Cherokee Nation prior to his locating on Grand River, opposite the mouth of Cabin Creek. He testifies that he "hampered" around on Big Creek and Rock Creek, for sometime before locating as above indicated. He further testifies that "he came back in '66", and introduces Sam Webber to prove this statement. Sam Webber testifies that they came to the Cherokee Nation together "in the fall of 1865", and that he left Jackson Davis on Horse Creek, while he (Sam), (1) "Went from Horse Creek on to Fort Gibson". (2) "Went from Horse Creek on to Coody's Bluff." (3) "Went from Horse Creek on to Fort Gibson." As Coody's Bluff and Fort Gibson are some eighty miles distant apart, and lie in different directions from Horse Creek, there appears little reason for this witness's confusion, had this trip to the Cherokee Nation, in fact, been made. There is little doubt but that the witness, Sam Webber, returned to the Cherokee Nation within the time specified in the Whitmire decree, and it is equally certain that his first trip to the Cherokee Nation after the Rebellion was made not earlier than August, 1866. He probably made a second trip from Kansas to the Cherokee Nation during the latter part of 1866, and a third some time in the spring of 1867. The testimony of numerous witnesses, interested and disinterested, who have testified before the Commission at different times and places, establish the above statement as practically correct.

The applicant, Jackson Davis, evidently intended to establish his return as in August or December of 1866, but in this his witness failed him, as he (Sam Webber), in connection with his testimony above indicated, further testifies that they did not return together in 1866, and that he did not see Jackson Davis during the year 1866, until "along late in the fall of '66, when they (Jackson Davis and family) came where we were over there" (on Big Creek). On behalf of the Cherokee Nation, Walter A. West testifies that Jackson Davis and family and one Tom Mayfield and family, came to the Cherokee Nation in February, 1869, and that Jackson Davis and family located "on the east side of the (Grand) river, near the mouth of Cabin Creek." This same witness, in the case of Thomas Mayfield, Cherokee Freedmen D 200, on behalf of the Cherokee Nation, testified to practically the same facts, and to the effect that Thomas Mayfield located on the east side of Grand river, opposite the mouth of Cabin Creek, is corroborated by Filmore Hicks, a witness for the said Thomas Mayfield. The Commission found, in Cherokee Freedmen D. 200, that the said Thomas Mayfield did not return to the Cherokee Nation within the time specified in the Whitmire decree, and on October 13, 1904, its finding was approved by the Department. Disinterested witnesses testify that Jackson Davis and family did not leave Kansas prior

to the fall of 1867, and probably later, and this, in connection with the testimony of Walter A. West, together with the finding of the Commission on Cherokee Citizenship in 1871, that "Jack Davis" did not return in time, form a combination of circumstances that satisfactorily show that Jackson Davis and family did not comply with the treaty stipulations of 1866, relative to the return of freedmen to the Cherokee Nation.

The applicant, Caroline Davis, testifies that after the close of the rebellion, she returned to the Cherokee Nation in company with "Henry Merrill" (Merrill), and others. In Cherokee Freedman D 788 it was found by the Commission that the said Henry Merrill did not return to the Cherokee Nation, after the close of the rebellion, within the time specified in the Whitmire decree, and on October 18, 1904, its action was approved by the Department. She further testifies that upon her return in the summer of 1866, she stayed at Fort Gibson with Solomon Foster and family. The testimony of Aaron Whitmire taken in re application of Charlotte French, Cherokee Freedman D 1012, and which is made a part of the record in this case, shows that Solomon Foster did not return to the Cherokee Nation before December, 1866. Lewis Whitmire, in behalf of the applicant, Caroline Davis, testifies that after the war he first saw her during the winter of '66, at her mother's home near Tahlequah. The above indicated testimony of Aaron Whitmire shows that his brother, the said Lewis Whitmire, first came to the Cherokee Nation in August, 1866, stayed a few weeks in the immediate vicinity of Big Creek, and then returned to Kansas; that he came to the Big Creek country again in December, 1866, remained a few days in that vicinity, and a second time returned to Kansas, and did not again visit the Cherokee Nation until some time after the month of March, 1867. As the Big Creek country is some seventy-five or eighty miles northwest from Tahlequah, it is quite evident that Lewis Whitmire was not in the vicinity of Tahlequah prior to April or May, 1867.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 496), Jackson Davis, Caroline Davis, Sallie Whitmire, Helen Ward, Sarah Ward, John Ward, Jodie Ward, Charlie Ward, John D. Davis, William Davis, Ellen Bell, John O. Blackburn, Nera Blackburn, Charlie Blackburn Jr., Carrie Blackburn, Buddie H. Blackburn, Sarah Blackburn, Julia Blackburn and Mannie Bean, are not entitled to enrollment as Cherokee Freedmen, and their applications for enrollment as such are accordingly denied.


COMMISSIONER

Dated at Muskogee, Indian Territory,
this SEP 29 1905

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

305

In the matter of the application for the enrollment of Jackson Davis, et al. as Cherokee Freedmen, consolidating the applications of

Jackson Davis, et al.,.....	Cherokee Freedmen	D 453
John D. Davis, et al.,.....	"	" D 455
William Davis,.....	"	" D 456
Ellen Bell, et al.,.....	"	" D 457

D E C I S I O N .

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Jackson Davis for himself and his wife, Caroline Davis; by John D. Davis for himself as a Cherokee Freedman and for his wife, Katie Davis, as a Cherokee Freedman by intermarriage, but as the status of persons applying for enrollment as Cherokee Freedmen by intermarriage is not fixed at this time, the application for the enrollment of Katie Davis, as such, will not be passed upon or considered in this decision; by William Davis for himself, among others, the other parties to his application, being differently classified, are not embraced in this decision; by Ellen Bell for herself and her minor children, John O., Nora, Charley, Carrie, Bud H., Sarah and Julia Blackburn.

The evidence shows that Jackson Davis, Caroline Davis, John D. Davis, William Davis and Ellen Bell were slaves of Cherokee citizens at the commencement of the rebellion; that the said Jackson Davis and Caroline Davis left the Cherokee Nation during the rebellion and returned thereto prior to January 19, 1867; and the said John D. Davis, William Davis and Ellen Bell, being minors at that time, are considered to have returned with their father, Jackson Davis.



The evidence further shows that the said John O., Nora, Charley, Carrie, Bud H., Sarah and Julia Blackburn are the children of Ellen Bell, born since 1866, and claim right to enrollment as Cherokee Freedmen through her.

The evidence further shows that all of said applicants have resided in the Cherokee Nation from 1866, or from their birth where born thereafter, up to and including the date of their applications, with the exception of occasional temporary absences.

-2-

It is, therefore, the opinion of this Commission that Jackson Davis, Caroline Davis, John D. Davis, William Davis, Ellen Bell, John O. Blackburn, Nora Blackburn, Charley Blackburn, Carrie Blackburn, Bud H. Blackburn, Sarah Blackburn and Julia Blackburn should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


C. R. Beckwith.

W. E. Hickey.

Dated at Muskogee, Indian Territory,
this _____

IN THE MATTER OF THE FREEDMEN,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the settlement
of Jackson Davis, et al., as Freedmen, Commission
the applications of:-

Jackson Davis et al.,	Cherokee Freedmen D 453,
Salie Valmore, et al.,	Cherokee Freedmen D 454,
John B. Davis,	Cherokee Freedmen D 455,
William Davis,	Cherokee Freedmen D 456,
Eliza Bell, et al.,	Cherokee Freedmen D 457,
Minnie Bean,	Cherokee Freedmen D 458.

--[--

ORDER.

It is ordered that a copy of the testimony of Aaron
Whitmore, taken at Muskogee, Indian Territory, December 23, 1905,
in re application of Charlotte French, Cherokee Freedmen No. D-
1012, be filed with and made a part of the record in the con-
solidated case of Jackson Davis, et al., Cherokee Freedmen No.
D-453 et al.

COMMISSION TO THE FIVE CIVILIZED TRIBES

T. J. French

Commissioner

Dated at Muskogee, Indian Territory,
this 17 day of January, 1906.

NAD 453

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901

Given under my hand this.....
day of..... A. D. 1901.

.....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

..... day of..... SEP 18 1901.

.....
Attorney for applicant.

UNITED STATES OF AMERICA
INDIAN TERRITORY, s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A.D. 1901

Subscribed and sworn to before me
this..... day of..... A.D. 1901.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
Notary Public:

FILED
SEP 18 1901

NOTARY CHAIRMAN

NOTICE!

IN THE MATTER OF the application of
for enrollment as a Cherokee citizen:

Case No. D 453

To

Jackson Davis or Melittor Smith attys
You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of *Vinita*

Indian Territory, on *Oct 11 1901* or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this *Sept 14 1901*

L B Bell
W W Hurling
Attorneys for the Cherokee Nation.

TO THE FIVE C
1911

1911

RECEIVED

MAY 14 1901

MAY 31 1901

CHEROKEE NATION,
District.

PERMIT.

Jacob Davis

CHEROKEE NATION, is hereby authorized and permitted, in accordance with Sec. 2d of the "Act Authorizing and Requiring District Clerks to issue Permits," approved Dec. 4, 1879, to employ *Col. J. H.* to labor as a useful Laborer, within the District, for the term of *one* months from this date, he having paid to me, in advance, the sum of *5.00* DOLLARS, in pursuance of the requirement of the before mentioned section of said law, as amended by Act December 1, 1885.

Given on this *15* day of *June*

1892

J. H. Tate Clerk of Cherokee District.
I do solemnly swear (or affirm) that I am a citizen of the United States and that I have never made application before any Commission or Court of the Cherokee Nation for citizenship in said Nation, and that I have come to work employment in this Nation, not on account of any criminal offense against the laws of the same, and that I have come to work employment in this Nation, within ten days after the expiration of my permit, unless the same shall be renewed, I will remove without the limits of this Nation.

Sworn to and subscribed before me the *15* day of *June* 1892

J. H. Tate
Clerk of Cherokee District.



PERMIT

CHEROKEE NATION *Delaware* DISTRICT.

Mr. *Jack Davis* a citizen of the Cherokee Nation, is hereby authorized

and permitted, in accordance with Section 2nd, of the "Act authorizing the District Courts to issue PERMITS," Approved December 4th, 1879 and amended Dec. 1st, 1880 and Dec. 3rd, 1889, to employ *A. W. Clogston* to labor as a *com* within this District for the term of *two* months from this date; he having paid to me, in advance, the sum of *1.00*

dollars, as follows—Cash \$ *1.00* National Certificates \$ *0.00*. Given under my hand and seal of office, this the *1st* day of *March* 189 *2*

J. L. Lamaron
Deft. CLERK OF *Delaware* DISTRICT, C. N.

OATH.

I do solemnly swear (or affirm) that I am a citizen of the United States, and that I have never made application before any Commission or Court of the Cherokee Nation for citizenship in said Nation. That it is not on account of any criminal offence against the laws of the same, that I have come to seek employment in this Nation. That within ten (10) days after the expiration of my permit, unless the same shall be renewed, I will remove without the limits of this Nation.

A. W. Clogston
Sworn to and subscribed before me this *1st* day of *March* 189 *2*
Deft. Clerk J. L. Lamaron

DEPARTMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 31 1901

 ACTING CHAIRMAN

DEPARTMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 31 1901

CHAIRMAN

SERIES A.

(ACT OF NOVEMBER 6TH, 1902.)

No.

Cherokee Nation, Delaware District.

Permission is hereby granted Joest Davis a citizen
of the Cherokee Nation, to employ R. W. Nauman as a
Hand for the term of One Month from this date.

"No permit shall be issued for a longer period than Dec. 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the 4 day of June 1908.

J. P. Beatty
Clerk Delaware District.

Countersigned:

Treasurer Cherokee Nation.

SERIES A.

(ACT OF NOVEMBER 6TH, 1902.)

No.

Cherokee Nation, Delaware District.

Permission is hereby granted Joest Davis a citizen
of the Cherokee Nation, to employ R. W. Nauman as a
Hand for the term of One Month from this date.

"No permit shall be issued for a longer period than Dec. 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the 4 day of May 1908.

J. P. Beatty
Clerk Delaware District.

Countersigned:

Treasurer Cherokee Nation.

1913

1913

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Jackson Davis,

Adair, I.T.

Cherokee F-D-453

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the motion for a rehearing of the application for the enrollment of JACKSON DAVIS, ET AL., as Cherokee freedmen, consolidating the applications of:

Jackson Davis, et al.....Cherokee Freedmen D 453,
Sallie Whitmire, et al.....Cherokee Freedmen D 454,
John D. Davis.....Cherokee Freedmen D 455,
William Davis.....Cherokee Freedmen D 456,
Ellen Bell, et al.....Cherokee Freedmen D 457,
Mannie Bean.....Cherokee Freedmen D 740.

Reply of the Cherokee Nation.

The record in this consolidated case shows that the principal application was made by Jackson Davis on the 31st day of May, 1901, before the commission to the Five Civilized Tribes at Chelsea, Indian Territory, and that applications were made for the heads of the other families upon dates subsequent thereto; the record further shows that the decision of the commission rejecting the applicants was rendered by the commissioner to the Five Civilized Tribes on September 29, 1905, and the same is pending approval before the Department. The records further show that all of the applicants herein were represented when they first appeared before the commission to the Five Civilized Tribes by Hallette & Smith, as their attorneys, Mr. Hallette is now and has been for four years last past the United States District Attorney for the Western District of the Indian Territory, and Mr. Smith is a member of the firm of Zevoly, Givens & Smith, and was one of the attorneys employed to represent the Cherokee Nation in a large claim against the government of the United States recently decided in favor of the Cherokee nation by the Supreme Court of the United States. Attention is invited to this fact to show that these applicants were represented from the outset by eminent counsel. In the motion for a rehearing no excuse whatever is given why the witnesses now proposed to be introduced were not introduced prior to the final closing of this case. Jackson Davis says in his affidavit attached to the motion that it was because of his poverty. Now the truth is, and I think it will not be disputed by the present attorneys for these applicants, that

these applicants are perhaps in better financial circumstances, or in equally as good financial circumstances, as any freedmen applicants in the Cherokee Nation. Certainly we know of our own personal knowledge that they are in good financial circumstances and were in splendid financial circumstances in 1901, and were able to employ the best legal talent in the Indian Territory to represent them and they were able and conscientiously represented, and the records further show that a number of witnesses, including Samuel Webber, Abraham Hare, Lewis Whitnair, Looney Whitnair, in addition to the principal applicant's testimony, were introduced from time to time before the commission, and the record further shows that when other witnesses were introduced on behalf of the Cherokee Nation and against the applicants, that their rights were protected, that their attorneys appeared and rigidly cross-examined these witnesses. The records further show that this case has been briefed some two or three times, elaborately so, by Blue & Bulger, the successors of Mellette & Smith, and the present attorneys, Starr & Patten, seem to have succeeded to their business. It is therefore manifestly unfair to say to the department that this consolidated case of Cherokee freedmen was not well represented, and it is also unfair to the present counsel for applicants to permit the affidavit of Jackson Davis to be attached to this motion pleading poverty, when it is well known that this family is in as good financial circumstances as any other family of freedmen applicants in the Cherokee Nation. The truth is that these people are in splendid financial circumstances and we think that this fact must be known to the present attorneys. This is the only excuse which the principal applicant alleges for not producing these witnesses on his former trial. In the case of Ann Johnson, on March 4, 1906 (I.T.D. 2758-1905), the Department held:

"It is true that accompanying the motion are affidavits which allege that the principal applicant, Ann Johnson, through whom the others claim, was brought to the Cherokee Nation from Kansas in 1866, but there is no affidavit by the principal applicant, explaining the failure to produce the parties to these affidavits at the original hearing or showing that with due diligence the evidence could not have been discovered prior to the hearing. Neither is an affidavit produced showing that the motion is not made for the purpose of delay."

This is unquestionably good law. Now we submit that the applicants do not present a reasonable explanation of their failure to produce the parties whose affidavits are attached to this motion at some previous

hearing of this case.

But lets examine the case a little more closely upon its merits. Jackson Davis takes the stand in his own behalf, and his testimony is very unsatisfactory indeed when you attempt to locate him permanently at any one place. He wanders about throughout the Cherokee Nation, or floats in the air as it were, until he finally locates himself about the mouth of Cabin Creek. His principal witness, Sam Webber, crosses himself and contradicts the principal applicant by attempting to swear that he came down with him in 1865, and the commission in its decision goes into the details of this most thoroughly, and we commend a careful reading of the opinion of the commissioner to the Five Civilized Tribes to the consideration of the department, because it is pointed and sets out the contradictions of the witnesses, and attention is invited also in the decision of the commissioner to the distances from certain points throughout the Cherokee nation, which is necessary to understand in order to form a correct estimate of the weight that should be given certain witnesses who testified in the case. Lewis Whitmire also testified in the case, but more particularly as to Jackson Davis' wife. Now there was filed the statement of Aaron Whitmire in this case, who gives a detailed account of his first trip to the Cherokee nation after the war which was in August of 1866. He states that Sam Webber came upon that trip as well as in December of 1866. These are the first two trips that Webber made to the Cherokee Nation after the war and was not therefore in the Cherokee Nation in 1865, as he stated. The truth of the matter is that Sam Webber has been a standing witness before the commission to the Five Civilized Tribes until he became so disreputable that even the colored applicants would not use him. Our record as far as taken shows that he testified in 64 different cases and practically all of them were denied by the commission to the Five Civilized Tribes and rejected by the Department upon appeal, and among these are Freedmen Doubtful 435, being Becky Webber, denied by the Commission to the Five Civilized Tribes and approved by the Department; F. D. 466, Wilson Towers, denied by the commission to the Five Civilized Tribes and approved by the department; also F. D. 555, William Buffington; F. D. 607, Abraham Ward; F. D. 562, Catherine Ward; F. D. 443, Jack Starr;

F. D. 627, Frances Anderson; F. D. 602, Santa Ann Nivens, and as above observed agree with many others, totaling 64 of which we have a record. But Aaron Whitmire's statement conforms to his statement made before the Chambers court in 1878, and is corroborated by the record of the Chambers Court that has been introduced in numerous cases and Aaron Whitmire thoroughly contradicts Lewis Whitmire's statement made in this case, because he shows that Lewis Whitmire could not have gone to Tahlequah and married Betsy Whitmire until after they return in the Spring of 1867. The Cherokee Nation introduced a number of witnesses from Kansas among them Thomas Hamilton, Elizabeth Harris, Charles Creighton, who knew Jackson Davis for some two or three years after the war in Kansas; knew that he resided there upon a farm; knew the family, and W. A. West, a citizen of the Cherokee nation, testifies positively that they came there in wagons reputed to be from Kansas in February of 1869.

In this connection we desire to invite the attention of the Department to the fact that there was also filed in this case a decision of the Supreme Court of the Cherokee nation in 1871, deciding against the applicants. Now the Department held on March 5, 1906, in the case of John and Cynthia Morgan (D.C. 9101-1906) as follows:

"The record shows, a fact not mentioned in said decision, that the Supreme court of the Cherokee Nation, June 8, 1871, denied John and Cynthia Morgan rights in the Cherokee Nation.

In a similar case, that of Harry Still, in which said court admitted the applicant to all rights to Cherokee citizenship entitled under the treaty of 1866, the Assistant Attorney General in an opinion of October 8, 1905, approved, stated that the adjudication of this Court has the same effect as the adjudication of similar cases by the United States Court under the Act of June 10, 1896, and when reopened to inquiry upon the facts such adjudication is to be considered as evidence of great cogency to be followed unless it appears that fraud was practiced upon the court, or that the evidence then before the Court and that now available show that the conclusion of the Court upon the case for fraud or lack of evidence then available was clearly wrong; that the commission should regard itself rather as a court reviewing the case as upon a petition for a new trial than as exercising an original and ought not to overturn a finding made after the impairment and loss of available evidence by the lapse of more than 30 years. No allegation is made in this case that the determination of the court in 1871 was vitiated by fraud and no attempt is made to show that it was made on account of lack of evidence then available."

This we believe to be correct law. We have heretofore taken occasion to argue that in 1871, now 35 years ago, there was an abundance of evidence available to show the exact date of the return of the applicants. They appeared before the court and those entitled were admitted,

and the records of this court show that all of these persons were admitted to citizenship who came within the time as testified to by Aaron Whitmire whose evidence is made a part of the record in this case, and he testified to it. For instance, the Whitmires were admitted, the Webbers were admitted, and the members of the Sanders family were admitted and they were admitted by this court and the Chambers court, both being Cherokee courts having jurisdiction in citizenship matters. Now 35 years have elapsed, most of these people who were old enough then to have remembered and testified and who perhaps took notice of the return of these applicants are dead, and it is very difficult indeed to procure testimony to show the exact date of the return of these applicants, and for that reason we agree with the department that the Commissioner to the Five Civilized Tribes should "regard itself rather as a court reviewing the case as upon a petition for a new trial." Then upon a review of the case the applicants introduced Sam Webber and Lewis Whitmire, and it is shown in the case of George Waigs, P. D. 394, in the case of Daniel Whitmire, P. D. 434, that the Webbers and Sanders did not return until the spring of 1867, just as Aaron Whitmire has testified to in this case, and if that be true then Lewis Whitmire and Sam Webber testified falsely in this case, and for that reason their testimony was ignored by the Commissioner to the Five Civilized Tribes in deciding this case on September 29, 1905. The decision of the Commissioner is itself a splendid analysis of the testimony and in view of that fact, it is unnecessary to go into as detailed an examination of the testimony as would otherwise have been necessary. The discrepancies are pointed out and attention is invited to them. The witnesses introduced on behalf of the Cherokee Nation who had no interest whatever in the case other than to speak the truth; they had no prejudice whatever against the applicants, but they knew them in Kansas; knew what farm they lived upon; knew that they lived there at least 1866 and 1867 and lived there some time after that date.

But lets examine more closely the motion for a new trial. In the first place we contend that the motion does not show any diligence whatever, and we have called the attention of the department to its own decision in the Ann Johnson case, where the motion for review was overruled

in that case because no diligence was shown and no reason assigned why the witnesses could not have been gotten and introduced at a former trial. As was said by the Supreme Court of Arkansas in 2 Ark. 346, being that of Olmstead versus Hill, "new trials would be endless if every additional circumstance bearing upon the facts in litigation were the cause for a new trial." This decision points out the necessary requisites of a motion for a new trial. It is a very learned opinion, and it states that the evidence must be not merely cumulative, must not be contradictory, must not be for the purpose of impeaching, but must be newly discovered and it must have been out of the power of the applicants to have discovered it in time to have introduced it upon the former trial; that it must be material, and that it must be such as would probably change the result of the verdict. Practically this has been decided in the case of Moore versus Loney, Creek Co. 49, where a number of decisions are also cited to the same effect. This is the law everywhere, but the motion for a new trial has really no material affidavits attached to it. It is a negative affidavit of Ed Young, who was only 10 years of age in 1866, and he testifies that he was well acquainted in the community and did not know Jackson Davis. If we will apply our own experience to the consideration of this affidavit very little importance will be attached to it. Think of this man now thinking back for 40 years, when he was a barefoot boy of ten summers, and memorizing his knowledge as to who all lived in the community. Our experience will show that little weight should be given to such an affidavit. The next man is Sam Casteel, and it does seem that these attorneys prefer to grope in darkness because of all the witnesses who live in that vicinity they prefer a man who cannot sign his name, but signs by ex mark. His testimony is negative and he has nothing by which he fixes a date. The next is Isaac Shields, who signs by ex mark, witnessed by H. B. Paramore, the agent of the attorneys generally in Kansas. He only says he never saw him around Mapleton for or after a certain time. The truth is there are hundreds of people living around in my community at the present time that I never saw to know, and if I were placed upon the stand I could truthfully state that there are perhaps five hundred

people who get their mail at my present postoffice whom I have never seen to know. The next is M. T. Young, and he only states that he is well acquainted in the community and he only knows that Jackson Davis was not there "to my knowledge." Suppose all of these witnesses were to appear before a jury, certainly very little weight would be given their testimony. The next affidavit is signed by J. Stith, and it is also a negative affidavit, and he says that Jackson stayed around Mapleton a few months, but he does not state the exact date of the time within which he left, so that it will be seen if all of these witnesses were introduced which are of a negative character, and I do not doubt that they could get 25 more who would be willing to testify that they never saw the principal applicant around Mapleton, Kansas, certainly all of them would not overcome the positive disinterested statement of the witnesses who have testified on behalf of the Cherokee Nation.

It is asserted that an attempt will be made to discredit one of the witnesses, Elizabeth Harris, but no affidavit is filed to this effect, and besides she gave her testimony in 1901, October 14, was rigidly cross-examined by Bellette & Smith, and five years have elapsed and no attempt was ever made to discredit her. Courts have held everywhere that cases would not be reopened for the purpose of introducing impeaching testimony because if that be true, then every applicant would search throughout the country for some one who would go upon the stand to bring the witnesses into disrepute.

It is found in Cherokee Allotment Contest No. 712, decided by the Commissioner to the Five Civilized Tribes on June 8, 1906, as follows:

"The rule is general that a new trial or rehearing will not be granted on a mere showing that new evidence has been discovered. Newly discovered evidence in order to be sufficient must possess the following requisites:

- (a) It must be such as would probably change the result if a new trial is granted.
- (b) It must be discovered since the trial.
- (c) It must be such as could not have been discovered before the trial by due diligence.
- (d) It must be material to the issues.
- (e) It must not be merely cumulative to the former evidence.
- (f) It must not be merely impeaching or contradicting the former evidence."

Measured by either of the six tests hereinabove given, the applicants are not entitled to a new trial in this case. Certainly the negative

testimony of these witnesses would not change the result if a new trial is granted, certainly with any diligence whatever the testimony could have been discovered before the trial; no one will doubt but that it is cumulative of former evidence and finally it is submitted that one witness alone is threatened to be impeached.

Again, applicants say that the case of Thomas Mayfield has been remanded. While that is true, Thomas Mayfield has never been admitted by the commissioner to the five Civilized Tribes, but the case was remanded upon a number of ex parte statements filed in connection with a motion to reopen.

Again it is asserted that they expect now to show that Jackson Davis first settled on Big Creek. If that be true, it will contradict Jackson Davis' testimony because he only claimed to stay up there some three or four weeks and to have made his first permanent settlement on Grand River. He is now estopped from attempting to change his permanent residence, but suppose he does attempt to show that he settled upon Big Creek, does not the testimony of Aaron Whitmire conclusively show that no freedmen family settled on Big Creek in the year of 1866?

Again, attention is invited to the fact that these affidavits attached only corroborate the testimony heretofore introduced on behalf of the Cherokee Nation to the effect that this family did live in and near Mapleton. Those who knew him agree to that. Now, Elizabeth Harris gives her postoffice as Mapleton, and says she has lived there since 1862, and she swears positively that she knows Jack Davis; she knew his oldest daughter and called her by name, Sallie Bean, and by the way Ben Bean was her ~~first~~ first husband, and she says that the next eldest one was John, the third one was named William, and they had a girl by the name of Lizzie, and the youngest one she thinks was named Ellen. By referring to the record we find her statement to be correct, and that she gives the name of the children as they were born, and really Ellen was the youngest one, but we mention this to show her familiarity with the members of the family. Thomas Hamilton gave his age as 73 and his postoffice Mapleton, Kansas, and he said he knew the family and he mentioned the names of the boys John and William, and he said they had two girls whose names he had

forgotten, and in answer to a question he says, "I think he must have made a crop in 1866 and 1867, and he might not have done it in 1868; he made two crops, and then he testifies that they lived near him, and he was positive at least that they made the two crops in 1866 and 1867. Charles Creighton testified that he came to the neighborhood of Mapleton in the year of 1865, and that he lived upon a certain farm in 1866, and he knows that Jack Davis was there in 1867, and he swears that he never knew him until November, 1866, and he could not have known him any earlier than that, but unquestionably he did know him and that fact cannot be disputed, and when he knew him he knew him in the vicinity of Mapleton. Now after 1867 or 1868, as these witnesses put it, Jackson Davis dropped out of their sight and W. A. West accounts for him by saying he saw him moving into the settlement on Grand River below Vinland in February of 1869.

Section 2 of the Act of April 26, 1906 (Public 129) provides that the roll of Cherokee Freedmen shall only include such persons "who were actual, personal, bona fide residents of the Cherokee Nation August eleventh, eighteen hundred and sixty-six, or who actually returned and established such residence in the Cherokee Nation on or before February eleventh, eighteen hundred and sixty-seven." Now there is certainly no convincing proof whatever in this case that would satisfy the mind of a reasonable man that Jackson Davis or his family were ever actual, personal bona fide residents of the Cherokee Nation prior to February 11, 1867.

They were denied by the Supreme Court of the Cherokee Nation in 1871, when it was easy to get testimony as to their exact return.

Sam Webber has been discredited in a great many other cases.

Both Sam Webber and Lewis Whitmire are impeached and discredited by the statement of Aaron Whitmire which is filed in this case and by the decision of the Department in the case of George Waigs, F. D. 394, and Daniel Whitmire, F. D. 434, wherein the Department finds that no families moved to Big Creek in the Cherokee Nation prior to the Spring of 1867.

Sam Webber and Jackson Davis are both discredited by the conflicts in their testimony.

Jackson Davis and his witnesses are discredited by the disinterested

witnesses brought to the Cherokee Nation from Kansas to testify in a positive and convincing way to knowing this family in and near Mapleton and they attach affidavits to the motion to reopen corroborating the witnesses of the Cherokee Nation to the extent at least that they did live in or near Mapleton.

We invite particular attention of the department to the bad practice of the attorneys for applicants wherein they state in this motion as follows:

"Applicants have a great number of other witnesses we would have procured, but we have deemed these sufficient for the purposes of this motion and if a rehearing is granted in this case, we will produce our witnesses both from Kansas and the Cherokee Nation to fully establish the return of Jackson Davis prior to February 11, 1867."

This promise of performance is insufficient in law. If these attorneys are honest with the department and if they have other witnesses why not make them comply with the rule of the department in the Catherine Vix and other cases and require them to attach affidavits of each witness stating in substance all facts intended to be proved by each witness. The Cherokee Nation is not put upon notice as to what they expect to prove and if they have an honest, good cause the applicants need not fear attaching affidavits of reputable witnesses, and if their cause is not just, then their motion should be disallowed.

We submit for the reasons hereinabove assigned that the motion for a rehearing in this case should not be allowed and that the decision of the Commissioner to the Five Civilized Tribes dated September 29, 1905, should be affirmed.

Respectfully submitted,

Signed W W Hasling
Attorney for the Cherokee Nation.

I think a decided preponderance of the testimony shows that the applicants did not remove to and permanently locate in the Cherokee Nation in time to comply with treaty. From the testimony of Thomas Hamilton and Elizabeth Jane Morris, both disinterested witnesses, Jackson Davis unquestionably residing near Mapleton, Kansas, with his family, from spring of 1866 to fall of 1867.

Testimony of witnesses for applicant and witnesses for Cherokee Nation is in conflict, but the witnesses on behalf of the nation fix definite dates from documentary evidence, while witnesses for applicants testify entirely from recollection.

3/11/04

B. CJ.

Cherokee Freedmen D-453, et al.

I think the testimony shows that the applicant, Jackson Davis and his children, John D. Davis, William Davis and Ellen Bell were residing in the state of Kansas in the year 1866 and the Spring of 1867, and should be denied. Caroline Davis, wife of Jackson Davis, seems to have been in the Cherokee Nation in 1866 and I think the decision is correct as to her. The testimony is very unsatisfactory and conflicting but I am of the opinion that this decision should be written as I have suggested above.

CM.McR.

August 10, 1904.

I think a decided preponderance of the testimony shows that the applicants did not remove to and permanently locate in the Cherokee Nation in time to comply with treaty. From the testimony of Thomas Hamilton and Elizabeth Jane Morris, both disinterested witnesses, Jackson Davis unquestionably residing near

6. 79-143
DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 31 1901


ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN

Date May 31st, 1901

Post Office Delaware, D.C.

District Delaware

1. Name Jackson Davis Age 74

Owner's name K.C. Citizenship X000

Year 103 Page 103 No. 2567 District X000

Parents:

Father _____ Citizenship _____

Mother _____ Citizenship _____

2. Name of wife Caroline Davis Age 53

Owner's name K.C. Citizenship X000

Year 103 Page 103 No. 2568 District X000

Parents:

Father 5453 Citizenship _____

Mother _____ Citizenship _____

Names of Children:

No.	Year	Page	No.	Dist.
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

(Large handwritten signature "Doulfield" is written across the table)

Application made by No. 1

Stenographer [Signature]

No. 1 on K.C. roll as Jack Davis

No. 2 " " " " " " " "

No. 1 on Wallace Roll P. 110 No. 2331, Delaware

No. 2 " " " " " " " "

Represented by Mellett Smith, Kinta, D.C.

X

D.453

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JUN 17 1901

[Signature]

ACTING CHAIRMAN

COMMISSIONERS:
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Jackson Davis et al for en-
rollment as Freedmen of the Cherokee Nation, one copy of the ori-
ginal testimony of May 31st, 1901, one copy of the supplementary
testimony of May 31st, 1901 and one copy of the supplementary
testimony from the case of Caroline Davis of June 1st, 1901.

Mellette Smith

Attorney for Applicants.

Cherokee F. #D453.

COPY.

Cherokee Freedmen

D-453.

Muskogee, Indian Territory, January 21, 1905.

Blue & Bulger,

Attorneys for Jackson Davis, et al.,

Vinita, Indian Territory,

Gentlemen:

There is herewith inclosed a copy of the testimony of Aaron Whitmire taken at Muskogee, Indian Territory, on December 23, 1904, in the matter of the application for the enrollment of Charlotte French as a Cherokee Freedman, together with an order dated January 13, 1905, and signed by Commissioner Bixby, making same a part of the record in the matter of the application for the enrollment of Jackson Davis, et al.

Respectfully,

James Bixby.

Chairman.

Incl. S-112.

COPY

Cherokee
F Do-482

Muskogee, Indian Territory, September 30, 1908.

Jackson Davis,

Adair, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1908, rejecting, among others, the application for the enrollment of yourself and your wife, Caroline Davis, as Cherokee freedmen. Your attorneys, Elue & Bulger, Vinita, Indian Territory, have heretofore been furnished with a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The Department's action will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED).

Jams Bixby
Commissioner.

Incl. GL- 58.1/2
GHL

Register

COPY

Cherokee
F D-453 et al.

Muskogee, Indian Territory, September 30, 1905.

Blue & Bulger,

Attorneys for Jackson Davis et al.,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting, among others, the application for the enrollment of Jackson and Caroline Davis, and Mammie Bean as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The Department's action will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED)

Jame Bixby.

Commissioner.

Incl. 01-62.
GHL

REGISTER

COPY.

Cherokee
F B-455 et al.

Hastings, Indian Territory, September 30, 1906.

Hall, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Hastings, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 30, 1906, rejecting the applications for the enrollment as Cherokee Freedmen of the applicants embraced in the consolidated applications of Jackson Davis et al., Cherokee Freedmen B-455 et al.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The Department's action will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED:

James B. Boyd

Commissioner.

Incl. CL-64.
CHL

COPY.

Washoe, Indian Territory, September 20, 1908.

The Honorable,

The Secretary of the Interior,

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of Jackson and Caroline Davis; Nellie Whitacre, and her grand-children, Helen, Sarah, John, Fannie, and Charlie Ward; John B. Davis; William Davis; Ellen Bell and her children, John G., Nora, Charlie, Carrie, Fannie H., Sarah, and Fannie Blackburn; and Mamie Dean, as Cherokee freed-men, including the decision of the Commissioner to the Five Civilized Tribes, dated September 20, 1908, rejecting said applications.

Respectfully,

SIGNED,

James Bixby
Commissioner.

Incl. 62-68.
GML

Through the
Commissioner of Indian Affairs.

Land
78759-1905.

(C O P Y)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

October 13, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes dated September 30, 1905, transmitting the record of the application for enrollment as Cherokee Freedmen by Jackson Davis for himself and his wife, Caroline Davis; by Sallie Whitmire for herself and her minor grandchildren, Helen, Sarah, John, Jodie and Charlie Ward; by John D. Davis for himself; by William Davis for himself; by Ellen Bell for herself and her minor children, John O., Mera, Charlie (Jr.), Carrie, Buddie H., Sarah and Julia Blackburn, and by Mannie Bean for himself.

September 29, 1905, the Commissioner decided adversely to all the applicants.

The record shows that the applicants, Jackson Davis, Caroline Davis, Sallie Whitmire, John D. Davis, William Davis and Ellen Bell were the slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war, and did not return thereto and establish a residence therein on or before February

11, 1867.

The record further shows that the minor applicants, Helen, Sarah, John, Jodie and Charlie Ward are the children of one Howard Ward, a non-citizen of the Cherokee Nation, and Julia Ward, born Bean, deceased, who was the daughter of the applicant, Sallie Whitmire, and one Ben Bean, deceased, was born since 1866, and was a full sister of the applicant, Mannie Bean; and that that the minor applicants, John O., Nora, Charlie, Jr., Carrie, Buddie H., Sarah and Julia Blackburn (Blagburne), are children of the applicant, Ellen Bell, and one Charlie Blackburn (Blagburne) Sr.

On October 10, 1903, the Department approved the action of the Commission denying the enrollment of Charlie Blackburn (Blagburne) as a Cherokee Freedman.

The record further shows that the applicant, Mannie Bean, is a son of the applicant, Sallie Whitmire, and one Ben Bean, deceased, was born since 1866, has been given ample opportunity, but has failed to appear before the Commission and establish whether he possesses any rights to enrollment through his father. It is further shown that when Mannie Bean was about ten or eleven years of age, his father, Ben Bean, since deceased, removed with his family from the Cherokee Nation, and for fifteen years continuously resided outside the limits of the Indian Territory, and that Mannie Bean remained a member of, and resided with, his father's family; that subsequent to

the family's removal, Julia Ward, born Bean, now deceased, became the wife of one Howard Ward, a non-citizen of the Cherokee Nation, and that for a number of years they continuously resided in the State of Missouri, where their four eldest children were born. None of the applicants, or Ben Bean or Julia Ward is identified on the 1880 authenticated Cherokee roll or the Cherokee Census Roll of 1896.

In view of the record the approval of the Commissioner's decision adverse to all the applicants is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

M.M.M.(W)

Muskogee, Indian Territory, August 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a reply of the Cherokee Nation to a motion for a rehearing in the Cherokee freedman case of Jackson Davis, et al, D. 453, et al. Copy of this reply is shown to have been served on Starr and Patten, Vinita, Indian Territory, attorneys for applicants. The records of this office fail to show that a motion for a rehearing in this case has been filed with it.

The decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting the applicants embraced in the Cherokee freedman enrollment case of Jackson Davis, et al, was, together with the record of proceedings had in the case, forwarded to the Department on September 30, 1905.

Respectfully,

Commissioner.

Encl. N.A. 22-2.

Through the Commissioner
of Indian Affairs.

D.C. 83175-1906.

(COPY)

J.F. jr.

DEPARTMENT OF THE INTERIOR

XLB

WASHINGTON.

I.T.D. 8339-1906.

November 30, 1906.

12508- "

18338- "

10017-1906.

19174- "

L.R.S.

Commissioner to the Five Civilized Tribes,

Matheson, Indian Territory.

Sir:

On October 13, 1906 (Lend 78759), the Indian Office transmitted your report dated September 29, 1906, forwarding the record in the matter of the applications for enrollment as Cherokee freedmen by Jackson Davis for himself and his wife, Caroline Davis; by Sallie Whitmire for herself and her minor grandchildren Helen, Sarah, John, Jodie, and Charlie Ward; by John D. Davis for himself; by Ellen Bell for herself and her minor children, John G., Nora, Charlie, Jr., Carrie, Maudie K., Sarah, and Julia Blackburn, and by Mammie Bean for herself. Accompanying this record is your decision dated September 29, 1906, adverse to all of the applicants.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

On September 7, 1906, the attorneys for the applicants filed a motion for review in this case. This motion is considered to be without merit and is hereby denied.

On November 4, 1906, the attorneys for the applicants protested against your decision adverse to these applicants.

On November 15, 1906, the Indian Office transmitted a communication dated November 8, 1906, from the attorneys for the nation, filing argument in reply to the protest of the applicants' attorney.

On August 10, 1906, the attorneys for the applicants filed a motion for rehearing in order that further testimony might be introduced in behalf of the applicants.

On September 11, 1906, the Indian Office transmitted your letter dated August 22, 1906, forwarding the reply of the nation to the motion for rehearing.

The Department has considered the motion for rehearing. The supporting affidavits show no new evidence which by diligent search could not have been discovered prior to the closing of the case. The evidence desired to be introduced appears to be merely cumulative, and being negative in character would be ineffective.

Said motion is hereby denied.

An examination of the testimony in the case discloses no error in your decision.

The preponderance of evidence establishes the fact that the principal applicant did not remove to and take up his residence in the Cherokee Nation as contemplated by the treaty of 1846 and the act of Congress approved April 26, 1856 (34

Stat., 187). This, together with the proposition raised by the decision of the Supreme Court of the Cherokee Nation, dated June 8, 1871, adverse to the principal applicant in this case, is decisive.

Your decision is affirmed.

The record, motion and accompanying papers have been returned for the files of the Indian Office.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

1 inc. 12 inclosures to I.O.

Through the Commissioner
of Indian Affairs.

Cherokee Freedmen
D 453

Muskegee, Indian Territory, December 12, 1906

Jackson Davis,

Adair, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated September 29, 1905, rejecting, among others, your application for the enrollment of yourself and your wife, Caroline Davis, as Cherokee freedmen, was affirmed by the Department on November 30, 1906, and a motion for review of said case filed by your attorneys on September 7, 1906, and a motion for rehearing filed on August 10, 1906, were denied by the Department on the same date.

Respectfully,

L M B

Commissioner

Cherokee Freedmen
D 443 et al.

Muskogee, Indian Territory, December 18, 1906.

Blue & Bulger,

Attorneys for Jackson Davis et al.,

Waxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated September 20, 1906, rejecting the applications for enrollment of Jackson Davis, et al. as Cherokee freedmen, was affirmed by the Department on November 20, 1906. Your motions for review of said cases filed September 7, 1906, and for rehearing filed August 10, 1906, were denied by the Department on the same date.

For your information a copy of the Departmental decision referred to is herewith enclosed.

Respectfully,

Encl. B-55
L.M.B.

Commissioner.

Cherokee Freedmen
D 488 et al.

Muskogee, Indian Territory, December 12, 1906.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1906, rejecting the applications for enrollment of Jackson Davis, et al. as Cherokee freedmen, was affirmed by the Department, November 30, 1906. A motion for review in said cases filed by attorneys for applicants on September 7, 1906, and a motion for rehearing filed on August 10, 1906, were denied by the Department on the same date.

For your information a copy of the Departmental decision referred to is herewith enclosed.

Respectfully,

Encl. B-44
L.M.B.

Commissioner.

Muskogee, Indian Territory, December 15, 1906

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of November 30, 1906 (I.T.D. 17176-1906), affirming the decision of the Commissioner to the Five Civilized Tribes in the Cherokee freedman case of Jackson Davis et al., and in which it is stated that a copy of Indian Office letter of October 13, 1905 (Land 78759), concurring in the Commissioner's decision, is enclosed, you are advised that the copy of the letter referred to was not received with the Department's letter, and in order that the files of this office may be complete, it is respectfully requested that a copy of said letter be forwarded to the office.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M R

Commissioner

Muskogee, Indian Territory, December 18, 1906

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of November 30, 1906 (I.T.D. 17176-1906), affirming the decision of the Commissioner to the Five Civilized Tribes in the Cherokee freedman case of Jackson Davis et al., and in which it is stated that a copy of Indian Office letter of October 13, 1905 (Land 78759), concurring in the Commissioner's decision, is enclosed, you are advised that the copy of the letter referred to was not received with the Department's letter, and in order that the files of this office may be complete, it is respectfully requested that a copy of said letter be forwarded to the office.

Respectfully,

Through the

Commissioner of Indian Affairs.

L H B

Commissioner

(C O P Y)

D.C.55755-1906.

GAW

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land
110388-1906.

December 22, 1906.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

Referring to your communication of the 15th instant,
there is inclosed herewith a copy of Office letter of October
13, 1905, reporting upon the Cherokee freedman case of
Jackson Davis, et al.

Very respectfully,

(Signed) Frank M. Conser,

WSE:LM

Chief Clerk.

Cherokee Freedmen
D 453

McMongee, Indian Territory, March, 2, 1907

Jack Davis,

Adair, Indian Territory.

Dear Sir:

This office is in receipt, by reference of the Secretary of the Interior, of your letter of February 9, 1907, in further reference to your Cherokee freedman enrollment case.

In reply you are advised the records of this office show that on November 30, 1906, the Secretary of the Interior refused your application for enrollment of yourself and wife as Cherokee Freedmen. A motion for rehearing in your case filed by your attorneys, was denied by the Department on the same date.

Respectfully,

L M B

Commissioner

Cher. Fr. R. 897

Trans. from Fr. D. 454

Cher. Fr. R. 897

E

A. D. 454

Given to and transcribed before the said day of August 1901.

and that the same is a true and correct copy of the original.
The Commission to the Five Civilized Tribes has caused the following:
Bruce C. Jones, being said amount, was that as aforesaid, to

transcribed and shown to before me this 31st day of August, 1901.
Witness my hand and seal of office at the above said place
this 31st day of August, 1901.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
AUG 31 1901

[Signature]

RECORDED

Commissioner.

Witness, J. B. Rogers,
August 31, 1901.

Commissioner.

File with Cherokee Freedman D- 454, Sallie Whitmore

Department of the Interior,
Commission to the Five Civilized Tribes,
Chalson, I.T., May 31, 1901.

In the matter of the application of Jackson Davis for the enrollment of himself and his wife, Caroline Davis, as Cherokee Freedman; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

Mellette & Smith, Attorneys for Applicant.

- Q What is your name? A Jackson Davis.
Q How old are you? A 74.
Q What is your postoffice address? A Adair.
Q What district do you live in? A Delaware.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My wife and four or five children.
Q Have you got any children under 21 years of age? A Yes sir.
Q Unmarried? A No sir, none unmarried.
(Children will apply for themselves.)
Q What is your wife's name? A Caroline.
Q How old is she? A About 53, I believe it is.
Q Have you and your wife ever been recognized as Cherokee Freedmen?
A Well, I have been one portion.
Q Are your names on the roll of 1880? A I don't know whether it is or not.
Q Is it on any of the rolls of the Cherokee Nation? A It ought to be there; I don't know sir.

By Mr. Smith: Well, Jack, are you on the Kerns Clifton Roll? A I suppose I am.

The 1880 authenticated roll and the 1896 census roll examined and the names of the applicants not found thereon.

The Kerns Clifton Roll examined and the names of the applicants are found thereon as follows:

Page 103, No. 2567, Jack Davis, Cooweescoowee district.

Page 103, No. 2568, Carrie Davis, Cooweescoowee District.

The Wallace Roll examined and the names of the applicants are found thereon as follows:

Page 110, No. 2331, Jackson David, Delaware District.

Page 111, No. 2346, Carrie Davis, Delaware District.

By Mr. Smith: What are the names of your children, Jack? A One is named Sallie, and William, John and Ellen and Lizzie; I only got five.

- Q Are the girls married? A Yes sir, they are all married.
Q Give the names now of each one of the girls? A The oldest one is named Sallie.
Q Sallie what? A Sallie Whitmore.
Q What is the next girl's name now? A Lizzie Grimes; she is a widow.
Q The next girl? A Ellen Bell.
Q What are these papers you handed me, can you read? A No sir, I can't read or write.

Attorney for Applicant desires to offer permits issued by the Cherokee Nation to the applicant for laborers.

Com'r: He presents four permits issued by the Cherokee Nation, which will be filed.

By Mr. Smith: Were you a slave during the war? A I was a slave.
Q Whom did you belong to? A A man by the name of Dr. William

Davis.

Q How was he a Cherokee Indian? A No sir, he was a white man of a Cherokee family

Q Who was his wife? A Polly Burns, I think.

Q Do you remember? A I remember, but she has been dead so long.

Q Where were you living at the time the war broke out? A Flint District.

Q With the family you speak of? A Yes sir, I was raised with them.

Q Did you go out of the nation during the war? A Yes sir.

Q Where did you go? A I went to Kansas, I was with the old army.

Q When did you come back to the Cherokee Nation after the war?

A I come back in '66.

Q How many children did you have then? A Had all the children that I have got now.

Q Did you bring them back with you? A Not when I first come, I didn't bring them right in; I brought them afterwards. I first come myself and looked for a location and went back and got them.

Q Where did this man, Dr. Davis, you speak of, live? A He lived in Flint District.

Q Near what place? A Near Evansville.

Q Can you state what time of the year 1866 you came down? A Not exactly sir, it has been so long; I can't just exactly make a good statement of that.

Q Who did you come with? A I come with a man by the name of Mr. Webber and others.

Q What was Webber's first name? A Sam.

Q About how old do you think you are now? A I am just 74 years old last Christmas past. Christmas day was my birthday.

Q When did you and Caroline, your wife, marry? A We was together before the war, but we separated at the time of the war, and in slave time we lived together, and got together again; we were married before the war.

Q Is there anyone here who knows when Caroline came back to the Nation, do you know? A Yes sir, she was here with her mother and grandmother, here at Fort Gibson she claims; I wasn't living with her at that time.

Q Who did Caroline belong to? A A family by the name of George Whitmire.

Q Was he an Indian? A Yes sir.

Q Where did he live? A He lived down in Coingsenake District.

Q Near what place? A I couldn't tell you what place it is; what the name is; on the Baron Fork I believe it is.

Q Is your recollection as good as it used to be? A No sir, not near as good as it used to be; I don't remember; I can't keep things in my head.

Q You don't remember how old you are? A No sir, I don't remember, but we come pretty close to fix it.

Q L. B. Bell: Where did you start from in Kansas, Jack, when you started back to the Cherokee Nation? A I started from about fifteen miles above Fort Scott.

Q Who come with you? A Samuel Webber.

Q Well, where did you come to? A We come all down to Horse Creek, and all through the territory above here.

Q Where did you finally locate? A I stopped a while out towards Big Creek and located there a while and then it didn't suit me there, I left there after so long a time, I don't know how long I stayed there; there wasn't anything to eat and I hammered around in Big Creek a while.

Q Was it three or four weeks? A Yes, I reckon it was about that time.

Q And then where did you go? A I looked about and I had to work for something to eat; I was scarce of money, and worked around wherever I could get labor to do on one place and another.

Q When you left Big Creek where did you go? A After so long a time I was on Rock Creek and I moved to Grand river.

Q You went to the mouth of Rock Creek then? A Yes sir. I don't

know how long; I was hard up then, and later I couldn't find them no how.

Q Which side of Grand river did you settle? A On the south side when I first settled there; I just hunted around among them.

Q You said you went to Big Creek from the mouth of Rock Creek?

A You know I lived on the other side.

Q Where did you live at on the other side, we call it the east side on the side that Lynch's Prairie is on? A Yes, sir, on the east side.

Q Where did you live there the first year after you left Big Creek? A I lived with a man by the name of Wolf on his place, in a little house in the woods there.

Q Well then after you left Wolf, the next year where did you live?

A I stayed there two or three years with him; three I think.

Q Well, after you left Wolf where did you go? A Across the river.

Q On the place you are living now? A Yes, sir, on the place I am living now.

Q Been living there ever since? A Yes, sir.

Q Never moved out and stayed five or six years? A No sir.

Q Never scouted none? A No sir, never scouted a day.

Q Didn't scout any when Fisher got a lot you for tobacco? A No sir, didn't scout then.

Q You are pretty certain you stayed three years on the Wolf farm?

A I reckon about three years; I guess it was near three years I stayed over there. I didn't have no place, I was just renting around from those families from one and then another.

SAM WEBBER, being sworn by Commissioner Needles, and examined by Attorney Edgar Smith, testified as follows:

Q State your name? A Sam Webber.

Q What is your postoffice? A Nowata.

Q How long have you lived in the Cherokee Nation? A Ever since '66.

Q Are you a Freedman citizen of the Cherokee Nation? A Yes sir.

Q Are you on the 27th 1880 roll? A Yes sir.

Q Do you know Jackson Davis, who is the applicant in this case?

A Yes sir.

Q How long have you known him? A I have seen him before the war, but just to know him; I never knowed him right good 'til the time of the war I got acquainted with him good.

Q Where did you see him before the war? A I seen him down here in the nation; he come to Big Creek.

Q You had some acquaintance with him before the war commenced?

A Yes sir, of course I was a little acquainted with him.

Q When did you first see him after the war? A In the time of the war you mean, don't you?

Q I mean when did you first see him after the war in the Cherokee Nation? A I seen him in '66; in the fall of '66.

Q Whereabouts? A He come with us there to Horse Creek; my first trip to this country.

Q Was he married at that time in '66? A No sir, he wasn't married right then; he was a single man; he had his children you know.

Q Did you know his wife, Caroline? A I got acquainted with her too about that time or a little before.

Q Had you known her before the war or not? A I don't remember as I do before the war.

Q Do you know who Jack belonged to? A No sir, I don't really know who owned him.

Q Was he a slave before the war? A I suppose he was.

Q Do you know whether Caroline, his wife, was a slave or not?

A I suppose she was; I don't know.

Q I don't know whether you know or not. Do you know who she belonged to? A No sir, I don't know.

Q Well, how long did you stay and how long did Jack Davis stay on

Horse Creek in 1865? A We stayed all night together there and I left him there; I went on to Gibson and I left him on Horse Creek, left him there with my family, old man Sam Webber.

Q Your father's name was Sam Webber also? A Yes sir.

Q When did you next see Jack Davis after you left him on Horse Creek in '65? A I seen him on Big Creek.

Q How long afterwards? A The next fall.

Q In the fall of '66? A Yes sir.

Q What family did Jack have at that time? A Just his children.

Q Can you think now how many children there were? A I don't know that I can state all of them; I can state some of them.

Q State all you can? A I can name one Sallie. French was her owner. John and Will.

Q What were the names of Jack Davis' children at that time? A Sallie.

Q The next one? A John and Will.

Q Do you remember any others? A There was another girl I seen, but I can't call her name; she was small.

Q About what time in 1866 was that when you saw Jack and those children? A Along late in the fall of '66 when they come where we were over there.

Q Where were they at that time? A On Big Creek in the Cherokee Nation.

Q Have you known Jack Davis ever since that time? A Yes sir.

Q Where has he been living? A He went to Grand River from there the time I saw him; he was on Grand River after that.

Q Is that in the Cherokee Nation? A Yes sir.

Q Do you know John Davis? A Yes sir.

Q Where does John Davis live? A He lives on Lightning Creek now.

Q How long has he been living there? A I don't know, I can't tell you now; he has been there a good while.

Q Give your recollection or judgment as to the number of years?

A It is pretty hard for me to do; I never noticed him particularly; he had been there a good long while on Lightning.

Q Do you know William Davis? A Yes sir.

Q Is he living or dead? A He is living on Lightning.

Q Do you know Sallie? A Yes sir, she lives on Lightning.

Q Is she married? A Yes, she is married now.

Q What is her name now? A Sallie Whitmire, Dennis Whitmire's wife.

Q And what was the other one's name you mentioned a while ago?

A I couldn't tell you.

L. B. Bell: You say you left Jackson Davis late in the fall of '66 at Horse Creek to go to Gibson? A In '65.

Q Who was with him? A My father.

Q What was your father's name? A Sam Webber.

Q Where were they going? A They come down on a hunt and to look around at the country; peace was declared you know.

Q How much of a crowd was with him - you wasn't of the party, you just come across them? A We all left Kansas together.

Q Who was in the crowd? A Jesse Brown.

Q Go ahead? A John Curry.

Q Name another one? A Israel Johnson.

Q Did they have their families with them? A No sir. There was another fellow I can't think of his name. His name is out of my mind another man.

Q Did you make any locations that fall? A No sir.

Q What became of him when you left him at Horse Creek? A I left him there. I went to Gibson and when I come back to this part of the country, I went to Verdigris, and I never seen him, and I stayed there until March, '66, we and Jesse Brown.

Q And your father? A No sir, he never got with my any more there.

Q Where did you leave him? A On Horse Creek. When we left there we went to Cooley's Bluff on the river.

Q When you went to Cooley's Bluff you got with Jesse Brown? A No sir.

Q Who was with you at Coody's Bluff on the hunting trip? A Jesse Brown, John Strop, Lou May, Tebe Drew and son.

Q Where were the two Jesse Browns? A No sir, only one I know.

Q You said just now you left Jesse with your daddy? A No sir, I said Jesse and I went to Gibson.

Q You and Jesse left them there? A Yes sir.

Q When did you come down here and settle? A In the fall of '88.

Q Jack wasn't with you on that trip? A No sir, he didn't come down with me on that trip. He came shortly afterwards.

ABRAHAM HARE, being sworn by Commissioner Needles, and examined by Attorney Edgar Smith, testified as follows:

Q State your name? A Abraham Hare.

Q What is your postoffice? A Wimer.

Q How long have you lived where you live now? A Well, about thirty years, maybe longer.

Q Are you a Cherokee Freedman? A Yes sir.

Q Do you know Jackson Davis? A Yes sir.

Q How long have you known Jack? A I have known him ever since he was a boy.

Q Did you know him before the war? A Yes sir.

Q Where was Jack then when you knew him before the war? A Way down here about east of Tahlequah, as high as I can come at it.

(Cherokee Attorney, L. B. Bell, states that: "It is conceded that he is a Cherokee Freedman.")

Q Did you go out of the Cherokee Nation during the war? A No sir.

Q When did you first see Jack Davis in the Cherokee Nation after the war? A Well, as high as I can come at it, it was '88, I guess; I met Chief Ross going to Washington, and we were coming in then.

Q Where did you see Jack then? A He was in the crowd with us.

Q What place? A At Neosho River, coming down.

Q Where did you go to? A We come down to Big Creek; part of us went to Big Creek and part went on to Gibson.

Q How many children did Jack have - what were their names? I remember some of the boys.

Q Who were they? A John and Will; they were small boys then.

Q Did he have some girls? A I don't remember. I think he did though.

Q Where did you make your location? A On Big Creek.

Q Have you been living in that neighborhood ever since? A No sir, pretty high it though. I lived down on Grand River about three years.

Q Have you known Jack Davis ever since that time? A Yes sir.

Q Where has he been living? A He has been down on Grand river part of the time and part of the time on Big Creek. He left Big Creek and went to Grand river.

L. B. Bell: What time of the year was it you met Chief Ross?

A In '88.

Q That was the year, but what time was it? A In the fall. I think it was in the fall; it was warm weather; summer. I called it fall.

Q It was along in the summer or fall, was it? A Yes sir.

Q Chief Ross, you mean old John Ross? A Yes sir.

Commissioner Needles: Jackson Davis applies for the enrollment of himself and his wife, Caroline. Upon examination of the rolls of 1880 his name cannot be found thereon. He and his wife are both duly identified on the Kerns Clifton Roll and the Wallace Roll according to page and number of the said

rolls as indicated in the testimony, and makes satisfactory proof as to residence. By reason of the fact that their names are not found upon the authenticated roll of 1880, and the further fact that their enrollment is protested by the Cherokee Nation, the said Jackson Davis and his wife, Caroline, will be listed for enrollment as Cherokee freedmen on a doubtful card awaiting further consideration of the Commission. They will be notified of the decision of the Commission when rendered by mail.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 2nd day of June, 1901.

Signed, E. G. Rothberger.
Signed, T. B. Needles,
Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Oklahoma, I.T., May 31st, 1901.

Supplemental testimony in the matter of the enrollment of Jackson Davis as a Cherokee freedman.

GARRIE DAVIS, being first duly sworn, by Commissioner T. B. Needles, testified as follows:

APPEARS:

Mr. Smith, of firm of Mellette & Smith. Attorneys for Applicants.

Mr. L. B. Bell, Cherokee Representative.

Examination by Mr. Smith:

Q State your name? A Garrie Davis now; I used to be Garrie Whitmore.

Q Is Jack Davis your husband? A Yes, sir.

Q How old are you? A I am 64 years old.

Q Were you a slave during the war? A Yes, sir.

Q To whom did you belong? A Belonged to George Whitmore.

Q Was George Whitmore an Indian? A Yes, sir.

Q Cherokee Indian? A Yes, sir.

Q Where did he live before the war? A Down in Going Snake on the Barren Fork.

Q Were you out there when the war came on? A Yes, sir.

Q Did you go out of the Cherokee Nation during the war?

A Yes, sir.

Q When did you come back? A Now.

Q Where did you come to? A Fort Viburnum.

Q Now, where have you been living since? A I was, since I have been living on Grand river, 35 years.

Q Been living on Grand river 35 years? A Yes, sir.

Q Now, you don't know of your own personal knowledge what time Jack Davis got back? A No, sir—I don't know just when he got back, I know where I found him.

By L. B. Bell:

Q Who was it you belonged to? A George Whitmore.

Q Where did you go when you went out? A I went to Fort Scott.
Q You went up to Kansas too? A Yes, sir.
Q When did you return? A I returned in the summer of '66.
Q Who come with you? A My old step-grandfather and Henry Herrill and another man by the name of Murray.

Q Henry Herrill? A Yes, sir.
Q Who was your grandfather? A Old uncle Daniel Sanders.
Q He is dead now? A Yes, sir, and my grandmother.
Q Your grandmother is dead isn't she? A Yes, sir, Tempa Sanders.
Q Is Anybody alive that come with you? A No, sir, but my brothers and sisters; my brothers lives at Gibson they come from the south.

Q What was their names? A Betsey Whitmire was my mother.
Q Is she alive? A No, sir, she is dead.
Q Now, who was down there at Gibson when you first got there?
A The first one I saw was Solomon Forester and his wife, Eliza-beth Forester; I went to their house; that is where the first house I went to was Forester.

Q Did you know a woman that was down there by the name of Amanda Forester? A Yes, sir, I did.

Q Did you see anything of her when you went there? A Yes, sir; I saw her.

Q In '66; she was living there in '66? A Yes, sir, I was right there at her house.

Q Where did you start from when you started from Kansas?
A I started from Fort Scott.

Q That is where you were living? A That is where I was.

Q About how many with you in that crowd? A Four or five with me; I was down on the old Military road.

Q You come down the old Military road did you?

A Yes, sir, right by where you used to live.

By Mr. Smith:
Q How long have you and Jack Davis been living together as man and wife? A Well I must got with him; it must have been in '69 I think, or '68, I don't know which.

Q You and he had been married in war times? A No, sir, I wasn't married before the war, but I knowed him.

Q When were you married? A We married it must have been in '69 or '68, I don't know which, one of them I was married to him.

Q These children then are not your children? A No, sir; they are my stepchildren.

Q You are looking out now for yourself? A Yes, sir, I was looking then for these.

By Mr. Bell:
Q Were you with Jack when you stayed there at the mouth of Rock Creek? A Yes, sir, I was with him then, but I hadn't been with him long.

Q You were with him a year or two? A Yes, sir, I found him up on Big Creek, all my people was living down there, Johnson Whitmire people, there was two brothers of the Whitmires.

Q You and him didn't marry since you found him on Big Creek?

A Yes, sir, and then we moved to Grand river.

J. O. Roason, being first duly sworn, states that as stenograph-er to the Commission to the Five Civilized Tribes, he correctly re-corded the testimony and proceedings in this case, and that the fore-going is a true and complete transcript of his stenographic notes thereof.

Signed, J. O. Roason.

Subscribed and sworn to before me this 4th day of June, 1901.

Signed, T. S. Needles.

Commissioner.

(Extract from testimony introduced by applicant, Caroline Davis, June 1st, 1901.)

Supplemental testimony.
Ft. B. Hall.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T., June 1st, 1901.

Supplemental Testimony in the matter of the enrollment of
Caroline Davis as a Cherokee Freedman.

LEWIS WHITMIRE, being first duly sworn by Commissioner T. B. Needles, testified as follows:

Appearances:

Mr. Smith, of firm of Mellette & Smith, Attorneys for

Applicants:

L. B. Bell, Cherokee Representative:

Examination by Mr. Smith:

• • • • •

(Note: Portion of witness testimony omitted, as not affecting rights of applicant, Jackson Davis, or his children by his former wife.)

Q Mr. Whitmire, do you know Jack Davis? A Yes, sir, I know Jack Davis well.

Q Do you know John Davis? A Yes, sir.

Q William? A Yes, sir.

Q Sallie? A Yes, sir.

Q And what others are there? A Ellen, and then they has got two children that I haven't seen for quite a while and I disremember their names.

Q Do you know the mother of those children? A Yes, sir, I recollect her well.

Q What was her name? A Julia.

Q Was she a slave? A Yes, sir.

Q Who did she belong to? A Bob French's wife.

Q Was Bob French's wife a Cherokee citizen? A She was called that.

Q Where was this woman, Julia, at the time the war broke out?

A She was dead if I don't make a mistake.

Q Well, whose slaves were John and William and those other children you have mentioned, what family did they belong to?

A They belonged to the French family.

Q Do you know where they were when the war broke out?

A No, sir, I don't know where they went when the war broke out.

Q Did you know of your own knowledge when they came back?

A No, sir, I didn't.

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J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the fore-

COMMISSION TO THE FIVE CIVILIZED TRIBES
DEPARTMENT OF THE INTERIOR
JUN 31 1901
JUN 31 1901

going is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 4th day of June, 1901.

Signed, J. B. Rosson.

Signed, T. B. Needles,

Commissioner.

Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing, and that the same is a true and correct copy from the originals.

Bruce G. Jones

Sworn to and subscribed before me this 27th of August, 1901.



Commissioner.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
JUN 8 1901

ACTING CHAIRMAN

Department of the Interior.
Commission to the Five Civilized Tribes.
Chelsea, I. T., May 31, 1901.

In the matter of the application of Sallie Whitmire for the enrollment of herself and five grandchildren as Cherokee Freedmen; she being sworn and examined by Commissioner T. B. Needles, testified as follows: Mellette & Smith, Attorneys for Applicant.

Q What is your name? A Sallie Whitmire.
Q How old are you, Sallie? A 52 years, as near as I can guess.
Q What is your postoffice address? A Hayden.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A I don't know sir.
Q Is your name on the roll of 1880? A I don't think it is.
Q Is your name on any of the rolls of the Cherokee Nation? A I think it is on the Wallace or Kerns Clifton Roll.
Q Who do you want to enroll besides yourself? A One son, Manuel Bean.
Q How old is he? A 23.
 (He will have to apply for himself.)
Q Have you any children of your own under age? A No sir.
I have some grandchildren.
Q Do you want to enroll them? A Yes sir.
Q What are the names of your grandchildren? A Helen Ward.
Q How old is Helen Ward? A Ten.
Q Give me the name of the next one? A Sarah Ward.
Q How old is Sarah? A 9.
Q The next one? A I only got two with me.
Q Well, you just want to enroll two of them? A No, I want to enroll them all.
Q What are their names? A John Ward.
Q How old is John? A Five.
Q Well the next child? A Jodie.
Q How old is Jodie? A Three.
Q Is that all? A Charlie Ward.
Q How old is he? A Two years old.
Q What is the mother's name of these children? A Julia Ward.
Q Is she living? A No sir.
Q Was she your child? A Yes sir.
Q What is their father's name? A Howard Ward.
Q Is he living? A Yes sir, I haven't seen him for two weeks.
Q These children in your possession, are they? A Two of them.
Q The first two? A The first two.
Q Where are the other two? A With Miss Thornton or Miss Miller on Lightning.
Q Are they all living at this time? A Yes sir.
Q What is your father's name? A Jackson Davis.
Q What is your mother's name? A Julia.
By Mr. Smith: Is the Jackson Davis who just applied here for enrollment your father? A That is the one who was claimed to be my father.
Q Have you any brothers or sisters? A Yes sir.
Q What are their names? A John and then William.
Q What are your sisters' names? A Elizabeth and Elhora.
Q Are they married? A Yes sir.
Q Give their full names? A Lizzie Grimes and Elhora Bell.
Q About how old do you think you are? A 52, as near as I can guess, I was eleven years old when the war broke out, and I am guessing at it as near as I can.
Q Were you taken out of the Cherokee Nation during the war? A No sir. I made a mistake; yes sir, I was taken out as far as Keesee, Missouri.
Q Who took you out? A I went out with the soldiers; no one in particular took me out.
Q When did you return to the Cherokee Nation? A I was here during the spring of '88; I come right back; I didn't stay more than a month; we went to Missouri about a month and we came back to Fort Gibson.

2- B. F.

we went to Missouri about a month and I came back to Fort Gibson and I remained there.

Q That was in the spring of '66? A I don't remember what time it was. When the war broke out I think it was in the fall.

Q I am talking about when you came back? A The same year I went away in I came back.

Q How long was the war going on when you went away? A There hadn't been more than two fights at Dutch Mills and Cane Hill, and we came right back.

Q Where ~~did~~ you live now? A Hayden.

Q How long have you lived there? A I have been married ~~about~~ nearly five years to Dennis Whitmire. We live about 8 miles and a half of Mr. Hayden.

Q How long do you think you were out of the nation during the war all told? A About two months, I think we were out. After they had those two fights we went right back to Gibson.

Q Who brought you back? A I come back with the soldiers.

Q Who was your mother? A Julia French, wife of Jack Davis.

Q Was he a slave? A Yes sir.

Q Who did she belong to? A She belonged to Bob French.

Q Who did you belong to? A Bob French.

Q Was he a Cherokee? A He was a white man of Cherokee family.

Q Was his wife a Cherokee? A Yes sir, she lives right down to Tahlequah, Margaret French.

Q What was her name before she was married? A I don't know sir.

Q Where have you been living now up since the war? A Sometimes I have been living on Grand River and sometimes in the territory; I have mostly been living in the territory.

Q In what nation? A Cherokee. When I was working out some time, I was at Muskogee. I went there two months once.

Q Are you the oldest one of the brothers and sisters? A Yes sir.

Q You are not a full sister of John? A Yes sir.

Q Are you all full brothers and sisters? A Yes, so far as I know, I never heard any difference.

Q You are all full brothers and sisters? A Yes sir; there is John and all of them out there. We are all full ~~brothers~~ sisters and brothers.

Commissioner Needles: You say you were born a slave? A Yes sir.

L. B. Bell: You didn't come back with your father when he come? A I was with the soldiers; father was a soldier you know.

Q Well, but was you with him on Horse Creek when they ~~left~~ camped there coming down to the nation? A Yes sir, I guess I were.

Q There wasn't no soldiers with him? A There was no soldiers there, but I come back from Neosho with soldiers.

Q But I said when your father moved from Kansas back to the Cherokee Nation, was you with him? A Yes sir.

Q How old was you at that time, do you reckon? A Well, I don't know, not knowing the dates and the month; I don't know exactly how old I was.

Q You were about grown, were you? A No sir, I was only eleven when the war broke out, I couldn't have been grown then.

Q That was six years after that, ~~that~~ you could have been seventeen years old? A Yes.

Q You just stayed with the army all the time? A Yes, I stayed with the army most of the time. I worked at Headquarters around; I had to work.

Q You say you came back in about three months from Neosho? A I guess it was about that time.

Q How long did you stay in Gibson when you returned from Neosho with the soldiers? A After the war.

Q You never did leave Gibson anymore? A No sir.

Q Where did you first get with your father after the war? A Up here, I come to him at Grand River.
 Q He was living above the mouth of Rock Creek? A Yessir.
 Q On this side of the river? A No, he hadn't moved on this side then; he was on the other side renting, and when he took a claim he took it on this side.
Commissioner Needles:

The 1886 authenticated roll, the 1886 census roll, the Kerns Clifton Roll and the Wallace Roll examined and the names of the applicants not found thereon.

Q How long have you been married to Whitmire? A Five years this coming June.
 Q What was your name before you married this time? A Sallie Bean. That was my first husband.
 Q What was his name? A Benjamin Bean. I am enrolled on some of them as Sallie Bean. (Cannot be identified under that name.)
 Q You never lived in Delaware Dist act, did you? A No sir, only stopped at Vinita sometime; I have been staying there at Vinita.
 L. B. Bell: Did your father have any children by his last wife?
 A No sir.
Commissioner: Did you draw your strip money? A No sir.
 Q Did you draw any money? A No sir.
 Q Is your name on the Wallace Roll? A Yes sir.
 It is on the Wallace Roll, but I didn't draw any money on it.
 Q You never drew any money? A No sir.
 Q Did these children ever draw any? A No sir.
 Q Did Julia Ward ever draw any? A No sir.
 Q Julia Ward was the mother of these five children? A Yes sir, she is dead.
 Q Their names are not on any roll? A No sir.
 Q Who has the other children? A A Miss Miller.
 Q Is she a colored woman? A Yes sir.
 Q Has she been enrolled? A I don't think she has.
 Q Are these children's father a citizen? A No sir.
 Q A non citizen? A Yes sir.
 Q What relation is this Miller woman to you? A None at all. I couldn't keep them all.
 Q Who has the last child? A Miss Fitzpatrick.
 Q Is she a Freedman? A No sir.
 Q Is she a white woman? A No sir.

Sallie Whitmire applies for the enrollment of herself and five grandchildren, to-wit- Helen Ward, Sarah Ward, John, Jodie and Charlie Ward. She avers that said children are the children of her daughter, Julia Ward, now deceased. The father of the said children is named Howard Ward. She avers that she is now married to one Dennis Whitmire; that she is the child of Jackson Davis, who has this day applied for enrollment. The said applicant and the said children are not identified upon any of the rolls of the Cherokee Nation. She avers that she is the custodian of the two older children, Helen and Sarah, and that one Mrs. Miller is the custodian of John and Jodie, and the younger child, Charlie, is in the custody of one Miss Fitzpatrick. Satisfactory proof is made as to the residence of Sallie Whitmire, and in this connection reference is made to the testimony taken in the application of her father, Jackson Davis, who has this day been enrolled as a Cherokee Freedman on B Card No. 455, and the testimony in said case will be made a part of the record, and a copy of the same will be filed in the case now under consideration. It will be necessary for the applicant to make satisfactory proof as to the births of the said five children, their names not appearing upon any roll now in the possession of the Commission. Consequently, Sallie Whitmire and the five children enumerated herein will be listed for enrollment as

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Cherokee Freedmen are a beautiful race waiting further con-
sideration of the Commission. By reason of the fact that
their names do not appear upon any of the rolls of the
Cherokee Nation and because the representatives contest
their enrollment.

The undersigned, being duly sworn, states that as stenographer
to the Commission to the Five Civilized Tribes, he correctly re-
corded the testimony and proceedings in this case, and that the
 foregoing is a full, true and correct transcript of his stenographic
notes thereof.

Subscribed and sworn to before me this 2nd day of June, 1901.

Commissioner.

FILED
OCT 17 1901

Supl.C.F.-D.#453. File with case of Sallie Whitmire,
et al., C.F.-D.#454.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VIKITA, I.T., OCTOBER 11th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
Jackson Davis as a Cherokee freedman, introduced on part of
Cherokee Nation:

APPEARANCES:

Mr. Mellette, of Mellette & Smith, for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

THOMAS HAMILTON, being duly sworn by Commissioner Needles,
testified as follows, on part of Cherokee Nation:

MR. DAVENPORT: what is your name? A Thomas Hamilton.
Q where do you live, Mr. Hamilton? A Mapleton, Kansas.
Q How old are you? A 73.
Q How long have you lived at or near Mapleton, Kansas? A Since
'57.
Q what business do you follow, Mr. Hamilton? A I used to be a
farmer, I don't do anything now for a number of years.
Q Did you, while you were living at Mapleton or in that vicinity,
become acquainted with a colored man by the name of Davis? A I did.
Q what was his first name? A Jack, we used to call him.
Q Did you know any of his family? A I knowed John and William
and he had two girls, but I forget their names.
Q Where were you living when you first got acquainted with him,
Mr. Hamilton? A At Mapleton.
Q About when did you first get acquainted with him? A I think it
must have been sometime in '63, I would not be positive.
Q Well, after you got acquainted did he work near you after that
any? A He worked for my wife, I was working in the government
shop and he worked for her.
Q Now, did you leave Mapleton and go away to any place after that?
A I worked in the shop after I got acquainted with him and then I
left and went to Fort Smith.
Q Fort Smith, Arkansas? A Yes, sir.
Q About how long were you gone to Fort Smith, Arkansas? A Well,
maybe three months, I don't remember, it was not long.
Q when you came back where was Jackson Davis if you know? A I
think he was working for my wife when I got back.
Q Do you know whether he farmed any while he was living up in that
country? A Yes, I know he farmed.
Q well, what years did he make crops up there, Mr. Hamilton?
A I think he must have made a crop in '66, '67 '88 and he might
not have done it in '68, he made two crops.
Q Made two crops did he? A Yes, sir.
Q well, did you know his wife? A I wasn't acquainted with her,
but I have seen her. They lived about two or three miles and a
half from where I lived.
Q After you became acquainted with him did he go off
and come back with a wife? A Yes sir, he went off and brought
a woman there, when he come he had one woman there.
Q Did his family, these boys and girls, did they leave when he did?
A What?
Q When did he move away from that vicinity there, from Mapleton?
A He lived there three or four miles from me, three or four years.
Q Now, you said he made crops in '66, '67 and '8, now with reference
to these crops when did he move away? A He went away pretty soon.
Q Did his girls or boys go away with them? A The girls I know
very little about and well, the youngest boy I never seen him much
after I went home, only saw him before I come home, I seen John some.
Q Was John there up to the time his father left, or did he leave
first, or do you know? A I don't really know, I seen John a num-
ber of years afterwards in Fort Scott.
Q Do you know whether he was living there or not? A No, sir, he
was running a barber shop, he told me.

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MR. MELLER: Well, Mr. Hamilton, Jack Davis came to the Territory right here after the war, or soon after the war? A Well, that is my way of thinking that he made two crops up there, I think in '66, he come down here and got a woman and brought up there. Q Well, Jack Davis did come to the Territory in 1866? A I think he come down here in 1866 and got a woman and brought her up there. Q How long did he stay down here when he came in 1866? A He didn't stay a great while, shortly after that he put the crop in and some and got the woman and went back. Q Are you certain that is '66 or '65? A That was '66. Q Where did he make a crop you say in 1866? A He made a crop on Larks creek. Q Isn't that the last crop he made? A No, sir, I think not. Q Now, how long ago has that been? A It was '66 and '67. Q That has been about 36 years ago? A Yes, sir. Q When did you have your attention first called to this matter? A Until they come up here and examined here. Q When was that? A About a month ago. Q Now, Mr. Hamilton, do you pretend to say that you can remember a man made a crop at a certain place 36 years ago? A What makes me remember it; I could not swear positively only just my memory lead me to that conclusion. Q You know that he did come to the Cherokee Nation in 1866? A Yes, sir. Q Wasn't he back and forth frequently at that time? A I don't think he was. Q Did you watch him all the time? A No, sir. Q When did you leave Mapleton? A I moved there in '65. Q You didn't pay a great deal of attention to what Jack Davis was doing about the time? A Not a great deal, only just as I would see him. Q How far is it from here to Mapleton, Kansas? A About 120 miles. Q How far is it from Mapleton, Kansas, to the Cherokee line? A I don't know, it must be something high eighty or ninety miles. Q It didn't take long to go from Mapleton, Kansas, down to the Cherokee line and Cherokee line to Mapleton, Kansas? A No, sir, not very long. Q Well, when he finally left there, whether it was '66 or not, you understand he came to the Cherokee Nation? A That was my understanding, he was the first man to my country to come down here. Q He was the first man out of your country to come to the Cherokee Nation? A Yes, sir, he was to my knowledge.

Com'r Needles: This testimony will be filed with the testimony in the original case of the applicant, and will be made part of the record in Freedmen doubtful cases #454, #455, #456, and #457.

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J. O. Reason, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this October 16th, 1901.



Commissioner.

OCT 21 1901

• 2nd 1000 A. LIND CHAIRMAN

File with Sallie Whitmire, C. F. D. 454

File with

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October 14th 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Jackson Davis, C. F. D. 453

Appearances:

James S. Davenport for the Cherokee Nation
Mellette & Smith for the applicant.

Mrs. Elizabeth Jane Morris being first duly sworn by Comm'r T.B. Needles, testified as follows for the Cherokee Nation:

(By Davenport)

- Q What is your name? A Mrs. Elizabeth Jane Morris.
Q Where do you live? A In Linn County Kansas.
Q What is your post office? A Mapleton.
Q How old are you? A I was 66 on the 9th day of last March.
Q Did you ever live at Fort Scott, Kansas? A 20 miles from there is as near as I have ever lived.
Q When did you move into that locality? A In 1863, in December, where we live now.
Q Have you lived there ever since? A Yes sir.
Q Did you get acquainted with a family of colored people named Davis?
A Yes sir, Jack Davis.
Q Do you know his family? A Yes sir.
Q Give their names? A The oldest daughter, her name was Sallie Jean, she was married, next oldest John, a son, third one was named William, and the fourth was a girl, her name was Lizzie, I dont know as I am correct as to the youngest one, Ellen I think.
Q When did you get acquainted with Jackson Davis' family? A Fall in '65.
Q How far did they live from you at that time? A When I first got acquainted with he he was backwards and forwards, but he located in about one mile of where I live, on a man's farm named Jim Morris.
Q What year was that? A '66.
Q How long did he live there? A Until he moved to the Territory.
Q How long was that about? A Well I cant exactly say, if he left in the spring or fall; I am certain that he was there until the fall of '67, he moved away in '67, that is if he left in the fall but if he staid until spring then he left in the spring of '68.
Q You lived within a mile of him? A Yes sir.
(By Smith)
Q What is your name, did you say? A Elizabeth Jane Morris.
Q What is your post office? A Mapleton, Kansas.
Q You dont know whether the Jackson Davis you are talking about is the same man who has applied here to be enrolled do you? A I dont understand you.
Q I say, you dont know whether or not the Jackson Davis you are talking about, the one you knew in there in Kansas in '66 was the same Jackson Davis who has applied here for enrollment as a freedman do you? A I dont know who has applied, but I heard that he was down here.
Q But you dont know if it is the same man who applied here? A It must be.
Q Do you know it? A He came there by recommendation, he came here, I am speaking about the man that lived in my neighborhood.
Q That is the same one I am asking you about, is that the same one who has applied here? A I dont know that, of course.
Q Then, you dont tho that he is the same man who has applied here? A No sir.
Q Where were you when the war broke out? A I was living at Mound City Kansas? A Yes sir.
Q Were you a slave? A I once was a slave.
Q Were you a slave when the war broke out? A No sir I got my freedom in 1857.

Q How many years was that before the war commenced? A The war really commenced in 1861.

Q What time in '61? A I don't know exactly as to that, summer or fall.

Q When did it close? A In 1865.

Q What time of the year? A I don't tell you exactly, in the fall as nearly as I remember.

Q Where were you when the war closed? A Living on the place where I reside now.

Q Do you live on a farm? A Yes sir.

Q What year is this? A What year is this, this is nineteen-one or one hundred and one aint it? Yes.

Q That is it? A 101 aint it? I am not much of a scholar.

Q In 1866 where were you living? A Right where I reside now.

Q Do you know the difference between '66 and any other year or do you know simply that you have been living where you are now since the

close of the war? A I know I have been living where I am living now since the war closed.

Q And that you were living there when the war closed? A Yes sir.

Q Do you know now what happened in 1868? A Several things happened in 1868.

Q Well what? A Wasn't there a great race for nominating a President at that time?

Q I am asking you what took place then--do you know who was nominated then? A '68 you say?

Q Yes. A I can't say, I can call the Presidents over, some of them.

Q Can you tell me who was nominated in 1868? A In '68, wasn't this President that was assassinated, wasn't he nominated?

Q Who was that, Lincoln? A No sir.

Q Garfield? A I can't remember the different Presidents.

Q Wasn't that the one who was assassinated who was nominated in '68? A No, sir, must have been further back than that.

Q The truth about it is, you don't know when Jackson Davis left Kansas if he was ever there? A He was living there in '66 and '7 and left there in '7 or '8.

Q How do you know that? A By the birth of one of my children.

Q When did you first have your attention called to when Jackson Davis lived up there? A There was a gentleman there inquiring of me about what I knew about it.

Q Who was it? A I don't know, never asked him his name.

Q When was that? A One day last week.

Q Had you ever thought anything about Jackson Davis living there until this gentleman came there and inquired of you about it? A Yes sir I had it perfect when he came there.

Q How did you keep it in your mind all this time? A Because I never forgot it, they was old neighbors and I often heard from him since they left, they had often worked for us, this Mr. Davis.

Q You don't know what time of the year he left there? A To be exact I wouldn't say, but he left there either in the spring or fall, he might have left in the spring of '68, but I think it was in the fall of '67.

Q You think he left there either in the spring or fall but you are not positive which? A Yes sir, one or the other, I would not be positive.

Q You think he was there in '66 and '7 if you are not mistaken? A I am not mistaken about that, he was there then.

Q How many children have you living now? A Two, this was my oldest son that I was speaking about, his birth was put down in the bible, he was born in '66, and I know Davis' wife was visiting me and had him in her lap when he was at the breast, and when they left there he could walk because I fed him when we went to say good bye, of course he could not walk all the way.

Q What time was your son born, what part of the year? A June 14th '66.

Q Who put it in the bible? A One of my neighbors, a Mr. Brinkman.

Q Where is he now? A He is dead.

Q Where is the bible? A It is at home but the man that authorized me

here took it from the bible on a sheet of paper, he has it.
Q How did it happen to take it from the bible? A I showed him.
Q Did he tell you what he would like to have you swear? A No sir, he said he wanted the truth as near as I could give it about when Mr. Davis was living there.
Q Did you get a subpoena? A I don't know nothing about no subpoena.
Q You just come down here of your own accord? A I was authorized to come here by that gentleman, I was told that he was a United States Deputy.
Q What did he say about it? A He said he wanted to know as near as could be about when Mr. Davis left up there.
Q He didn't tell you he was a United States officer did he? A No sir, I was told that he was.
Q When did you first get acquainted with Jack Davis? A Must have been in '65.
Q Where was he living then? A Up there near Linn County.
Q What was he doing? A Working around.
Q Married or single? A No sir he married after that.
Q When? A In 1866.
Q Where? A I guess at Fort Scott.
Q Do you know? A I wasn't at the wedding, but I heard that was where he married.
Q Then he was away from Linn County in '66? A No sir he was there all the time where he lived in '66.
Q All the time? Mostly.
Q Well how much of the time was he away? A I don't know--in '65 was when I got acquainted with him---
Q Well you say he married in '66? A Yes sir.
Q He was away from Linn County then? A No sir, he was in the draft in '66 if you know what that is.
Q Where was Jackson Davis in the year 1866, can you tell me plainly?
A He was on that farm there.
Q You say him yourself? A Yes sir.
Q You didn't see him all the time in '66 did you? A No sir, but he was cropping there then.
Q You say he married in '66? A Yes sir.
Q How long was he away when he married? A He wasn't away from there any time then.
Q Where did he marry? A Fort Scott, Bourbon County.
Q Well then if he went to Fort Scott to marry he was away from Linn county some wasn't he? A He never lived in Linn county, he always lived in Bourbon.
Q Where were you living? A Linn county.
Q Well that was where you were living when you knew him wasn't it? A Yes sir.
Q Well then how could he marry some one in Bourbon county and not leave Linn County to do it? A He never lived in Linn he lived in Bourbon.
Q Do Linn and Bourbon counties join? A Yes sir.
Q Do you live close to the line? A Yes sir.
Q How far from Fort Scott? A 20 miles.
Q You don't know where he really did marry? A I was told he was married in Scott.
Q But on your own knowledge you don't know? A No sir.
Q When did he bring his wife to the place you are talking about? A In '66.
Q What time of the year? A In the spring or summer.
Q How long did he stay there at that place after he brought his wife there? A Until he moved to the Territory.
Q How long was that? A You ought to know how long from '66 to '67 is.
Q You are on the stand now, how long was it? A It was going on two years

and as I tell you, I can't say exactly if he left in the fall of '67 or staid until the spring of '68.
Q You never thought of this matter until that man came there to see you; you never before that took your bible down to see the date before that time did you? A I didn't have no cause to, there was no use to get the bible down to see.

(By Davenport)

Q Did Jack Davis farm there? A Yes sir.

(By the Commission)

Q You say he might have left there in the fall of '67? A Yes sir, if he left there in the fall he left in '67 and if he left in the spring it was in '68.

Q Do you positively state that Jack Davis didn't come to the Territory in the year '66? A I can't tell you anything about that.

Q He might have come to the Territory in '66 and then come back there and you not know it mightn't he? A Yes sir, but he never moved here, he might have come on a visit.

Q He might have come on business too? A Yes.

(By Smith)

Q Do you know a man named Hamilton in that neighborhood? A Yes sir I have been knowing him by name for years, I never knew knew him well.

Q He was living there in '66? A Yes sir, in Bourbon county.

Q Is he the same man who has been here to testify in this case? A Yes sir he told me he had been here twice.

Q Don't you know that Jack Davis was here in the Cherokee Nation in '66, and don't you know that the time you say you saw him there in January he had just brought his wife and children back there? A No sir.

Q When did he marry? A In '66.

Q Where were these children? A They was there and he kept house with them long before he brought this woman who is his wife now.

Q You don't know where he brought this woman from? A She lived in Fort Scott I tell you; she had been in that part of the country where I live a number of times before Davis married here; she had acquaintances there and used to come to see them, used to come and see the Foremans and others there, and had been in my house before she married him.

Q What place did Davis live on then? A The Jim Morris place, he is dead, but his son in law is there yet.

Q His son in law is still living is he? A Yes sir.

Q Is his wife living? A His second wife is living, his first wife is dead.

Q Do you know when Jack Davis went there to live on that place? A Seems to me he went there in '65.

Q What time of the year? A I can't tell you that.

Q Did he live on any other place besides that? A I can't tell you that.

Q From the time you got acquainted with him, did he live on any other place? A No sir, not as I know.

Q How long did he live on that place? A '66 and '67.

Q How far does this Mr. Hamilton live from you? A 20 miles.

Q For the purpose of refreshing your memory, if Hamilton says Jack Davis came to the Cherokee Nation in '66, is that correct or ~~in~~ incorrect? A I can't tell you anything about that.

CHARLES CREIGHTON, being first duly sworn by Com'r T. B. Needles testified as follows on the part of the Cherokee Nation,

(By Davenport)

Q What is your name? A Charles Creighton.

Q How old are you? A I am 80 years old the 20th of September past.

Q What is your post office address? A Mapleton, Kansas.

Q How long have you lived in the neighborhood of Mapleton? A Ever since I came here here about 36 years ago, I think.

Q When did you come to that neighborhood? A In November, time of the election, the 5th or 6th of November, I know that they was carrying on the election, you all know when that is.

Q What time, with reference to the close of the war? A Next fall after.
Q Since you have been living there did you become acquainted with a colored man named Jack Davis? A Yes sir.
Q Do you know his family? A I saw one boy, I have been to his house but have never been in it.
Q Do you know what place he lived on? A The Jim Morris place, he is dead now.
Q What year was that he lived there? A That was in '66.
Q How far did you live from this Morris place? A One mile northwest of it.
Q How long did you continue to live there? A Ever since I came there.
Q How long did Jack Davis live on this place? A I cant exactly tell that—he was there—it was in the spring of '67 that I saw him, it was the time of corn planting.
Q You went there when? A '66.
Q What fixes that date on your mind? A I have a deed, it was on the 15th day of November '66—I was about a week here when I got that deed. (hands deed to attorney)
Q Do you know if Jack Davis was farming on that place? A I dont know, I cant tell you, I never was there but the once, the year I came there or the year after, I dont know which.
Q You saw him there after this deed was executed to you? A Yes sir. I wouldn't know him if I would see him now; he was a kind of yellow fellow then, I dont know if he is yet.
Q You moved on the place that you bought did you? A Yes sir, I was off about ten months, I will tell you how that come—
Q We dont care anything about that—did you live on the place that this deed was given for after you bought it? A Yes sir.
Q And Jack Davis was living on this Morris place that year? A Yes sir (By Smith)
Q What did you say your name was? A Charles Creighton.
Q What is your post office now? A Mapleton Kansas.
Q Where were you from to that country? A I came from Illinois.
Q You had been there a week when you got this deed? A Only a week, or maybe two weeks.
Q During the—until the month of November 1866 you didn't know this man Davis? A Yes sir I seen him there at his own place.
Q I say, you didn't know him until November '66? A No sir I wasn't there myself before that.
Q You dont know anything about the matter except that you saw him there the following year after you come there? A That is all.
After you come there to Kansas you didn't know where he lived until some time after? A No sir.
Q Were you ever at his house? A Never was inside, I was there.
Q Do you know where he was in the year '66, all the year? A He was living there.
Q You dont know where he was until November of that year do you? A No sir it was after I come there that I got acquainted with him.
Q How long has it been since you have seen this man? A Not since '67
Q How long has that been? A I cant tell you; you'll have to figure it out.
Q You figure it? A I am too old to do it.
Q Can't you say how many years it has been? A No sir my head is too dizzy for that.
Q When did you first have your attention called to when you saw this man Davis first? Did you ever testify against him before? A No sir I didn't know he was on trial before.
Q When was your attention first called to this matter? A Last Friday or Saturday.
Q You had forgotten there was such a man then hadn't you? A No sir I often thought of Jack Davis, I thought of him many times.
Q Just kept on thinking of him for 35 years did you? A I would think of you too if you moved from my neighborhood.
Q You dont know where he lived? A No sir not since the fall of the next year; he was there in the spring of '67 because I was talking to him
Q You only saw him in Kansas? A Yes sir, that is all.

Q That is all you know about it? A Yes sir.

=====

This will be filed in the original application of Jackson Davis, C. F. D. 453, and also in Cherokee Freedman cases D-454; D-455; D-456; D-457 and D-740.

Chas. von Weiss, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas. von Weiss

Subscribed and sworn to before me this the 17th of October, 1901.



Commissioner.

Supl. C.P.-D.#453. File with case of Ballie Whitnire,
et al., U.S.-D.#464.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 11th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of
Jackson Davis as a Cherokee Freedman, introduced on part of
Cherokee Nation:

APPEARANCES:

Mr. Mellette, of Mellette & Smith, for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

THOMAS HAMILTON, being duly sworn by Commissioner Needles,
testified as follows, on part of Cherokee Nation:

MR. DAVENPORT: What is your name? A Thomas Hamilton.

Q Where do you live, Mr. Hamilton? A Mapleton, Kansas.

Q How old are you? A 73.

Q How long have you lived at or near Mapleton, Kansas? A Since
'57.

Q What business do you follow, Mr. Hamilton? A I used to be a
farmer, I don't do anything now for a number of years.

Q Did you, while you were living at Mapleton or in that vicinity,
become acquainted with a colored man by the name of Davis? A I did.

Q What was his first name? A Jack; we used to call him.

Q Did you know any of his family? A I knowed John and William
and he had two gals, but I forget their names.

Q Where were you living when you first got acquainted with him,
Mr. Hamilton? A At Mapleton.

Q About when did you first get acquainted with him? A I think it
must have been sometime in '62, I would not be positive.

Q Well, after you got acquainted did he work near you after that
any? A He worked for my wife, I was working in the government
shop and he worked for her.

Q Now, did you leave Mapleton and go away to any place after that?
A I worked in the shop after I got acquainted with him and then I
left and went to Fort Smith.

Q Fort Smith, Arkansas? A Yes, sir.

Q About how long were you gone to Fort Smith, Arkansas? A Well,
maybe three months, I don't remember, it was not long.

Q When you came back where was Jackson Davis if you know? A I
think he was working for my wife when I got back.

Q Do you know whether he farmed any while he was living up in that
country? A Yes, I know he farmed.

Q Well, what years did he make crops up there, Mr. Hamilton?

A I think he must have made a crop in '66, '67 '68 and he might
not have done it in '68, he made two crops.

Q Made two crops did he? A Yes, sir.

Q Well, did you know his wife? A I wasn't acquainted with her,
but I have seen her. They lived about two or three miles and a
half from where I lived.

Q After you became acquainted with him did he go off
and come back with a wife? A Yes, sir, he went off and brought
a woman there, when he come he had one woman there.

Q Did his family, these boys and girls, did they leave when he did?
A What?

Q When did he move away from that vicinity there, from Mapleton?
A He lived there three or four miles from me, three or four years.

Q Now, you said he made crops in '66, '67 and '68, now with reference
to those crops when did he move away? A He went away pretty soon.

Q Did his girls or boys go away with them? A The girls I know
very little about and well, the youngest boy I never seen him since
after I went home, only saw him before I come home, I seen John come.

Q Was John there up to the time his father left, or did he leave
first, or do you know? A I don't really know, I seen John a num-
ber of years afterwards in Fort Scott.

Q Do you know whether he was living there or not? A No, sir, he
was running a barber shop, he told me.

MR. MELLETT: Well, Mr. Hamilton, Jack Davis came to the Territory right here after the war, or soon after the war? A Well, that is my way of thinking that he made two crops up there, I think in '66, he come down here and got a woman and brought up there. Q Well, Jack Davis did come to the Territory in 1866? A I think he come down here in 1866 and got a woman and brought her up there. Q How long did he stay down here when he came in 1866? A He didn't stay a great while, shortly after that he put the crop in and come and got the woman and went back. Q Are you certain that is '66 or '65? A That was '66. Q Where did he make a crop you say in 1866? A He made a crop on Larks Creek. Q Isn't that the last crop he made? A No, sir, I think not. Q Now, how long ago has that been? A It was '66 and '67. Q That has been about 36 years ago? A Yes, sir. Q When did you have your attention first called to this matter? A Until they come up here and examined here. Q When was that? A About a month ago. Q Now, Mr. Hamilton, do you pretend to say that you can remember a man made a crop up a certain place 36 years ago? A What makes me remember it; I could not swear positively, only just my memory lead me to that conclusion. Q You know that he did come to the Cherokee Nation in 1866? A Yes, sir. Q Wasn't he back and forth frequently at that time? A I don't think he was. Q Did you watch him all the time? A No, sir. Q When did you move Mapleton? A I moved there in '65. Q You didn't pay a great deal of attention to what Jack Davis was doing about the time? A Not a great deal, only just as I would see him. Q How far is it from here to Mapleton, Kansas? A About 120 miles. Q How far is it from Mapleton, Kansas, to the Cherokee line? A I don't know, it must be something high eighty or ninety miles. Q It didn't take long to go from Mapleton, Kansas, down to the Cherokee line and Cherokee line to Mapleton, Kansas? A No, sir, not very long. Q Well, when he finally left there, whether it was '66 or not, you understand he came to the Cherokee Nation? A That was my understanding, he was the first man to my country to come down here. Q He was the first man out of your country to come to the Cherokee Nation? A Yes, sir, he was to my knowledge.

Com'r. Haddley: This testimony will be filed with the testimony in the original case of the applicant, and will be made part of the record in Freedmen doubtful cases #454, #455, #456, and #457.

J. O. Ross, Acting first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this October 16th, 1901.

Commissioner.

File with Cherokee Freedman D-454, Salile Whitwire.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 14, 1901.

In the matter of the application of Delilah Rowe et al. for
enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:

Mallette & Smith, attorneys for applicants;
J. S. Davenport, of counsel for Cherokee Nation.

ELIZABETH JANE MORRIS, being duly sworn by Commissioner
Needles, testified as follows:

Mr. Davenport: What is your name? A Elizabeth Jane Morris.

Q How old are you? A I was 60 the 9th of last March.

Q Where do you live? A I live in Lynn County, Stanton Township.

Q What is your postoffice? A Mapleton.

Q How long have you lived in that section of country there in
Kansas, Mrs. Morris? A I have lived there from 1862 up to the pre-
sent time and living there yet when I am at home.

Q Since you have been living there, did you get acquainted with a
colored family by the name of Rowe? A Yes, sir, they were my near
neighbors when we were there.

Q Did you know one by the name of Delilah Rowe? A Yes, sir.

Q Did you know her father? A Yes, sir.

Q What was his name? A Daniel Rowe.

Q When did you get acquainted with this family? A When they first
came there, that was about the close of the war.

Q How far did they live from you? A About half a mile.

Q Well, how long did they continue to live there near you? A They
lived there until they moved to the Territory here.

Q About when was that, if you know, by any circumstances that
could have called that to your attention? A The same year that I
say, in '67, that Mr. Davis left me.

Q Do you know whether or not they came before or after Jack Davis
left that country? A They came before, or at least I got acquainted
with them before.

Q Did they come first or Jack David come first? A They came
first, Mr. Rowe came first, located.

Q Why do you say he came first, was there any circumstances?

A Well he moved there and lived there and I near neighbor with him
and I got well acquainted with them and therefore I say he came first.

Q Well, did you ever hear of any correspondence between them any-
way that makes you fix the time or ever know them coming, between
the Rowe family and the Davis family? A After Mr. Davis left there
they corresponded together.

Q What place are you speaking about that he left? A I thought I
told you on Mr. Morris' place, I didn't know of his living on any
other place after I got acquainted with him.

Mr. Smith: How long did you say this Delilah Rowe lived there?

A She lived there all the time her father did, with him.

Q What was her father's name? A Daniel Rowe.

Q Well, how long did he live there? A He lived there at the
close of the war in '65 as near as I can remember.

Q How long did he stay? A Stayed until he moved to the Territory.

Q Well, how long was that? A That was either in '67, in '67 if
it is correct about Mr. Davis, he left the same year as near as I can

he moved in the winter I recollect well, when Mr. Rowe moved, he moved in the winter. I am well aware of that, but I can't tell you exactly whether Mr. Davis moved in the fall or the spring, but Mr. Rowe, he moved in the winter, I have got that affirmed.

Q What time did he come there, in what season of the year was it?

A It was in the spring when Mr. Rowe moved there.

Q Had the war closed? A Well, people was returning home, I guess the war was pretty near closed.

Q When did the war close? A In '65 as it is said.

Q What time? A I can't tell you about what time, they said it closed in '65, but Mr. Rowe, I am satisfied, moved there in the spring.

Q Didn't you tell me a while ago that the war closed in the fall of '65? A That is what I understood, so said.

Q When was it that Mr. Rowe came there, in the fall or spring?

A He came there in the spring, I told you a while ago about the close of the war, there isn't much difference in the fall and spring.

Q Do you know which time of the year he came? A Came along about early planting time.

Q In the spring? A Yes, sir, that is how I know he came in the spring.

Q And the war closed the following fall? A So they said it closed in '65.

Q Well, was it the following fall? A Well I can't tell you, I haven't memory enough, they said it closed in the fall.

Q Well how did you get down here to testify in this case? A Didn't I tell you a gentleman came up there for me, wasn't I subpoenaed to come here and testify, when he came he brought Hamilton as a witness to my testimony, I didn't know at the time who he was but I was told since that he gave his name as a United States deputy.

Q You had no subpoena from the Dawes Commission to come here and testify?

Mr. Devenport: I object to that mode of examination; if the witness is here, she has got a right to come whether she is subpoenaed or not.

Commissioner: It is a circumstance as to the whole matter, but it does not make any difference.

Q What is your answer to that; you didn't have any subpoena from the Dawes Commission to come here and testify? A I don't know anything more about the Commission than anything in the world, he came and said he was doing government business.

Q How do you know this is in '67, how are you fixing it this time?

A From the age of my child, that is how I fix it.

Q How many children did you ever have? A I have had five in my life and only two are living.

Q What was the date that the child that you fix this date by was born on? A June 24.

Q What year? A 1866.

Q When was the next one born? A It was October 25.

Q What year? A I forget the year now, it is recorded in my bible, it was October 25, I forget the year.

Q How much older was the first child than the second one? A My boy, 7 years older; let's see, I can not count that up, my oldest son was born June 24, I was telling you, and the next one I forget the date of the year, but it was October 25, but I forget the date of the year now, but as I said, I have that, they are both on record right now, but I have forgot the next boy, the date of the year, but I have the day of the month.

Q Well, was it the next year after June 24, '66? A After this next one, no, sir.

Q The next one, not the youngest, the next one? A The one that died, it wasn't more than 5 years between the one that died and this one I was telling you that I have the date of, October 25, there was quite a difference in their ages.

Q How much? A I can't tell you exactly but I can recollect the date of the month.

Q Can you tell the year when any child was born except the one you have just told me about? A Yes, sir, my oldest girl was born April 28.

Q What year? A That was in '85.

Q April 25? A No, it was April, it wasn't '65, there is two years between my girl and my boy.

Q Well then what year was she born in? A Must have been in '64, wouldn't that make two years.

Q You know, don't you, what was it? A I know there is two years and some weeks.

Q Well, what year was it now? A Must have been in '64 as I told you, must have been, there is two years between the two.

Q Do you swear it was? A I told you about ~~xxxxxx~~ as near the truth as I can tell you; if he was born in '66 and he is two years younger than the girl, that would make her born in '64.

Q Now when was your child next to the boy born, what date, next after the boy that was born in '66? A I told you I can't remember the date of the year, I can remember the date of the month, I forget the date of the year, it is in the bible.

Q Outside of these two you have been talking about, you can't give the dates when any one of the other three children were born, can you? A I can remember the dates of three of them.

Q Well, what about the others, do you know what years they were born in? A My oldest child was born the 28th of August.

Q That year? A I will tell you in a minute, if you wont hurry me; '67, the birth of my oldest child, it is dead, she was born August 28 of 1857, understand.

Q How many years was that before the war? A Four years isn't it, close onto.

Q Now when did you first know this woman with reference to the time your child was born? A Who, Delilah?

Q Yes; when did you first know her with reference to the time the child was born, the one that was born in '66? A I got acquainted with her of course when her father first moved to the country, she was a little girl when her father first moved and settled where he lived.

Q Well, when did you say that was? A I told you it was right about the close of the war.

Q About the close of the war; you don't know whether it was before or after? A Must have been after, because the colored people was liberated.

Q You don't know how long though? A They come there in the spring as I told you right in planting time because they came to our house to speak for some potatoes to plant, that was the first visit he made us after he moved up there.

Q How far did he live from you? A Not more than a mile, right in sight.

Q How long did he live on that place? A Lived there until he moved to the Territory.

Q How long was that? A Well, as I told you, they came the year, or the year after, that Mr. Davis came.

Q This woman was just a child then? A Then they first moved there she was a little girl.

Q Well, was she a little girl when they moved away? A No, she was a mother, she got to be a woman because her child was born there because I am the one that took care of her.

Q You say Delilah was a little girl when she came there? A Well, a small girl.

Q And she moved away? A She came away with her father.

Q When was that, in '67? A I think it was in '67.

Q And she was a little girl when she went there? A When her father moved on the place there.

Q That was the spring after the war closed? A When they moved

there, yes.

Q And moved away in '67, and she was a little girl when she came there: is that right? A She was a little girl when she came there.

Q Now what was it you said about being a young woman when she went away? A She was a mother, she must have been a woman, she had that child before she moved away.

Q She did? A Yes, had that child living right by there where they lived all the time they were up there.

Q About how many years old do you think she was when they came there about the time the war closed? A Well, she might have been 10, 11, somewhere along there.

Q You think she was as much as 10? A I can't say, it is just guess work; of course she might have been more than that.

Q How old did she appear to be when she had this child, was she a young woman? A She was old enough to be a mother, I can't tell you anything about that.

Q Did she look like she was a fully developed and matured woman?

A She was large enough in size but I don't know what her age was.

Mr. Davenport: She was large enough to give birth to and raise a child? A Well, she had it, because I was with her when she child was born and took care of it.

Commissioner: What was Delilah Rowe's father's name? A Daniel Rowe.

Q You say she lived in Kansas with him in the winter of '67? A No, it was '67 when they left.

Q Maybe it was the winter of '66 then? A No, it wasn't '66 because Mr. Davis hadn't moved in '66 and he didn't go down till after Mr. Davis moved down.

Q You said that he came down before Mr. Davis, one time; you said something about Mr. Davis coming down, you said that he came down to the Nation to get his wife, didn't you say something about that; you said Mr. Rowe, the father of Delilah moved down before Davis did, and that he moved down in the winter of '67? A Davis moved first, didn't I tell you; you have got it wrong; didn't I tell you Mr. Davis moved down and wrote to Mr. Rowe a letter.

Q You say now that David moved before Rowe, do you? A Of course he did.

Q How long before? A Well, I can't tell you how long.

Q Well, didn't you say in your examination that Davis moved down you think in the winter of '67? A I said that is what I thought, I wouldn't be positive.

Q Sometime during the winter? A Yes, the fall.

Q You don't know whether it was the first part of the last part?

A No, I can't say for certain.

Q Couldn't it have been the last part of the winter of '66; you know the winter is in '66 and '67? A That is what I know, but, didn't I tell you I know by my child was born in '66 and didn't I tell you the child could walk and didn't I come down to tell Mr. Davis good-bye, the child walked part of the way and that was in '67, that is what I told you in plain words, that Mr. Davis was there in '66 and '67.

Q What time was the child born? A The child was born seems to me the latter part of the winter or spring.

Q Latter part of the winter or spring of what, '66? A No, the year after he moved down.

Q I am talking about this child that you say could walk? A That is my child.

Q That is what I am talking about? A Didn't I tell you all the time he was born in '66.

Q What month? A The 24th of June, 1866.

Q How old does a child have to be up there before it is old enough to walk? A They generally walk sometime inside of a year. I would give a child a year; I told you in plain words the child was born on June 24, 1866, and if he would walk, would make it throw him into '67, I told you that Mr. Davis moved down first and wrote to Mr. Rowe

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a letter when he was living there and Mr. Rowe brought the latter to my husband to read it, he couldn't read writing and my husband could.

Q That is the first you have said about a letter since you have been under examination in this case? A Well, that was the way of it.

Mr. Smith: Applicant objects to the testimony with reference to the letter, for the reason that the letter itself would be the best evidence.

Mr. Davenport: Is that letter you spoke of Mr. Rowe having read by your husband in your possession? A No, I guess not, Mr. Rowe took it with him.

Commissioner: Are you married? A Not now, my husband is dead.

Q Live on a farm? A Yes, sir.

Q Always lived on a farm? A Been living there since '62.

Q On the same place you are living now? A Yes, sir.

Mr. Smith: I would like to have a copy of this testimony filed in the Jack Davis case.

Commissioner: This testimony will be made part of the cases of Freedman D-749, D-750, D-752, D-837, and at the request of the attorney for the applicant, it will be also filed in the case of Jackson Davis, D-453.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 28th of October, 1901.

[Signature]

Commissioner.

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File with U. S. D. 434 Nellie Whitmore et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 8, 1902.

SUPPLEMENTAL TESTIMONY ON BEHALF OF CHEROKEE NATION,
in the matter of the application of Jackson Davis et al. for en-
rollment as Cherokee Freedmen.

Appearances:

Louis T. Brown, appears for Nellie S. Smith, attorneys
for applicants;
W. F. Hastings, of attorneys for Cherokee Nation.

WALTER A. WEST, being sworn and examined, testified as follows:

BY W. F. HASTINGS:

Q What is your name? A Walter A. West.
Q What is your age, Mr. West? A 60.
Q Post-office in Spavinaw? A Yes sir.
Q You are a Cherokee citizen by blood? A Yes sir.
Q Mr. West, when did you settle on the Old Military Road, as you
stated in your other examination? A I came there in May '66,
that is when I first struck the road.
Q You settled there on the old Military Road how far from Grand
river? A You might say at two places on the road, one was up at
Hudson's, and that same season I moved down near Cabin Creek.
Q That was later in the fall of the same year, the fall of '66,
you moved down near Cabin Creek? A Yes sir.
Q How far was that from Grand river? A About 3 miles.
Q Mr. West, do you know a colored man by the name of Jack Davis
who has got a number of spots among others Joe and John? A Yes sir,
I know Jack Davis.
Q When did you first see him after the war? A I saw him in Feb-
ruary '61 first time I ever saw him.
Q Tell the circumstances under which you saw him? A I lived there
on the Military road at that time and kept hay to sell to travelers
and sold some to the Government the evening of the same day that
Jack Davis come there and camped nearly a quarter of a mile from
the house right on that old road, and I was at his camp that
evening and that's where I first got acquainted with him, in '69,
and there was another party with him, man by the name of Jack Bean,
his wife was my wife's servant, that is my wife was her young mis-
tress, and they come up shore to see me and that's how I come to
become acquainted with the whole of them. I got to inquiring
who the others was and went down there and this Jack Bean and his
wife was the whole cause of my getting thoroughly acquainted with
the outfit, there was four bunches of them altogether.
Q What were they doing? A They were camped there, moving from Kan-
sas, just come there, broke down and got there about 2 o'clock that
evening.
Q They were moving from Kansas? A Yes sir.
Q Had you ever seen Jack Davis in that neighborhood before that?
A No sir, that was the first time after I got acquainted with him.
Q Had you lived there from '66 up until '69 in that neighborhood?
A Yes sir.
Q How far did Jack Davis locate from you? A About three miles.
Q On the river? A Yes sir, on the east side of the river, near the
mouth of Cabin Creek, on the east side from Cabin Creek.
Q In both other cases in which you were examined you had some
record or receipt showing that said date of February '69? A Yes
sir, I got the voucher from the Government; I had that in this
court this other court, but I didn't bring it down this time.

Q And that is the reason why you fix the date that you saw them?
A Yes sir, 19th of February.
Q They were heading down and on the road and camped at your place?
A Yes sir.
Q They said they were moving from Kansas? A Yes sir.
Q That is the first time you ever saw Jack Davis? A First time
I ever saw him.
Q You well acquainted around that neighborhood I suppose? A Yes
sir.

BY BROOKS:

Q You don't know when Jack Davis returned to the Cherokee Nation?
A Not any further than that.
Q You know his wife? A I saw his wife, but I wasn't acquainted
with her.
Q You know whether the wife he had then is his present wife now?
A No, I do not know whether it is his present wife.
Q At the time you claim him who was with him? A There was Jack
Dear, Sandy Beem and Tom Kerfield and his family, that was four
outfits of them together.
Q Did Jack have his wife along? A Jack Dean?
Q Jack Davis? A He had a woman along, I supposed it to be his
wife; I never went into details of which was his wife and which
was the others wives; they had some women and children.
Q He didn't tell you his wife was along? A No sir, I saw some
women in the crowd and supposed they belonged to the outfit.
Q You know Will Davis, son of Jack Davis? A Yes sir.
Q Do you know John Davis? A Yes sir.
Q Did you see them that time? A No sir.
Q All you know is the first time you saw him was sometime in the
year '89? A Yes sir, that was the first time I got acquainted with
him, that was in February.
Q In '89? A Yes sir.

BY COMMISSIONER: This testimony will be made a part of
the record in the case at bar and also in the following
doubtful Freedmen cases: 454, 455, 456 and 457.

M.D. Green, being first duly sworn, states that as stenographer to the
Commission to the Five Civilized Tribes he correctly recorded the
testimony and proceedings in this case and that the foregoing is a
true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this February 6th, 1902.

[Signature]

Commissioner.

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Cherokee Freedmen 2012

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, INDIAN TERRITORY, DECEMBER 23RD, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Charlotte French, as a Cherokee Freedman.

It appears from the record herein that on December 1, 1904, the applicant, Charlotte French, was notified by register letter and on the 3rd day of December, 1904, the attorneys for the Cherokee Nation were notified that an opportunity would be given each of them to appear before the Commission at its offices in Muskogee, Indian Territory, on Friday, December 23, 1904, and introduce testimony touching the applicants right to enroll, at which time this case will be taken up for final hearing. On this 22nd day of December, 1904, the applicant appeared by her attorneys, Blue & Bulger, the Cherokee Nation by its attorneys Bell, Hastings & Javenport.

Aaron Whitmire being first duly sworn, testified as follows:

BY MR. EASTMAN:

- Q What is your name? A Aaron Whitmire.
- Q How old are you? A 40.
- Q What is your postoffice? A Cuddy's Bluff, Indian Territory.
- Q How far is Cuddy's Bluff from the Verdigris River?
- A Half a mile.
- Q How far do you live from Lightning Creek? A I live three miles from Lightning Creek.
- Q What direction? A West.
- Q Do you live in the Coconino District? A Yes, sir.
- Q How far north of Chulasa do you live? A About four miles.
- Q Have you lived in that vicinity ever since you came there after the war? A Yes, sir.
- Q Are you living on the same place you originally settled? A Yes, right on the same place.
- Q How far is Big Creek from where you live? A Well it is about eight miles.
- Q Does Big Creek flow into the Red Verdigris River? A Yes, sir.
- Q And about eight miles from where you live? A No, it joins that far, the water flows in the river about four miles from where I live.
- Q What direction is it from where it flows in the Verdigris River?
- A Northwest.
- Q Does Big Creek empty in the Verdigris River north of where you live? A Yes, sir.
- Q Between where you live and the Kansas line? A Yes, sir.

Q There are at present a great many colored people living on the Verdigris River, Big Creek and Snow Creek? A There are a great many living there.

Q Were you a slave before the war? A Yes, sir.

Q Where did you live? A I lived in Goingsnaw.

Q Are you a brother of Louis Whitmire? A Yes, sir.

Q Are you a brother of Moss Whitmire? A Yes, sir.

Q You knew them of course before the war? A Yes, sir before the war.

Q Did you know them and were with them during the war? A Yes sir.

Q Where did you go during the war? A I went to Fort Scott, Kansas.

Q Were you in the army? A I wasn't exactly in the army, I was working for the government though blacksmithing.

Q Did your other brothers also work in the army? A They drove teams.

Q Did you know old Sam and young Sam Webber before the war? A I knew the old man before the war.

Q When did you get acquainted with young Sam? A In time of the war.

Q In the state of Kansas? A Yes, sir.

Q Did you know Mike, Sam, Ruben and Dan Sanders? A Yes, sir.

Q Did you know them during the war? A Yes, sir.

Q Where? A Fort Scott, Kansas.

Q Well at the time the war closed where were you and all of those other parties, including your brothers, Sanders and the Whitmires when the war closed? A Fort Scott, Kansas.

Q You are a recognized and enrolled Cherokee Freedman, are you not? A Yes, sir.

Q When did you make the first trip to the Cherokee Nation after the close of the war? A I made the first trip in August, 1866.

Q In August, 1866? A Yes, sir.

Q Well now who came along with you in August, 1866? A Well the old man Sanders.

Q What was Sanders' name? A Mike Sanders.

Q Was he the father of Ruben and Dan? A Yes, sir.

Q Who else came with you? A Old man Webber, old man Sam Webber, old man Willie Foreman, Peter Helga, Moss Whitmire, Nelson Whitmire, Louis Whitmire and Dennis Whitmire.

Q Where did you go? A We came to Big Creek.

Q How long did you stay on Big Creek? A We stayed there two or three weeks, I don't just recollect, I don't know how long, some two or three weeks.

Q Did any women or children come with you at all on that first trip? A No, sir.

Q Where did you go down Kansas and enter the Territory, at what point? A We came right to Ottawa and out to where Chatoys is now and turned west and went to Big Creek.

Q And then came down Big Creek? A Yes, sir.

Q Was there a white house anywhere in the Cherokee Nation along Big Creek at that time? A There wasn't nary one for a mile on Big Creek.

Q Was there anyone living on Big Creek in the Cherokee Nation at that time? A No, sir.

Q Was anybody living on Snow Creek at that time? A No, sir.

Q Did you see anybody living on the Verdigris river at that time? A Yes there was somebody living along the river, along the Verdigris.

Q Who? A Old man Riley.

Q Was he a Cherokee? A He was a Cherokee, and Carter, he was a Cherokee and John Coker, he was a Cherokee.

Q Well were there any colored people on the Verdigris river at that time? A No, not that I seen.

Q You stayed around then in that country some two or three weeks? A Yes, sir.

Q Well what did you do then? A We went back to Fort Scott.

Q That was the first trip that was made by any of the colored people up there, so far as you know, to the Cherokee Nation after the war? A Yes, sir.

Q That was what was said at the time? A I know that was what they said, there may have been a few come before that and went the other way by Granville.

Q Well now when was the second trip made. A That was made in December sometime.

Q Of 1866? A Yes.

Q Now who came with you on the second trip? A Ramsen Daniels, Solomon Foster, Dick Whitmire.

Q Was that old man Dick Whitmire? A Yes sir, and Sam Beck.

Q Were there any Creeks or Choctaws? A Some Creeks and Choctaws.

Q What became of them? A They went on down.

Q Into their own country? A Yes, sir.

Q Well did you go over practically the same country the second trip that you did over the first? A We didn't go over all the same country, we went over some of it, we done a little work.

Q Well at that time were there any colored people living in any of that part of the country known as Big Creek and Snow Creek country and the Verdigris River? A No, sir.

Q What work did you do in August, 1866? A Put up some houses.

Q Just put up the legs? A Yes, sir.

Q What did you cover them with? A We covered two or three of them, two I believe.

Q Covered you think about two of them? A Yes, sir.

Q But the rest were just the bodies of the houses? A Yes, sir.

Q You didn't put in any fields at that time? A No, sir.

Q Well when you come back in December you come to these same places where you had started your claims before? A Yes, sir.

Q Well how long did you stay there in December, '66? A I stayed there about four days.

Q Where did you go then? A I come to Fort Gibson from there.

Q Where did you go from Fort Gibson? A Geingsmake.

Q What became of those who were with you? A They went back to Fort Scott, Kansas.

Q After going to Geingsmake did you return to Kansas or Fort Gibson? A Yes, sir.

Q About what time of the year did you go back to Kansas? A It was near Christmas time, I don't just recollect that time.

Q Do you remember of the circumstances of Sam Hayford being killed? A Yes, sir.

Q Did you know Hayford? A Yes, sir.

Q There were you when he was killed? A Fort Gibson or Tahlequah.
 Q On this second trip? A Yes, sir.
 Q He was killed when you returned? A Yes, sir.
 Q Did you know Eli Mackay, a colored fellow, who killed him?
 Yes, sir.
 Q Now did any women or children go with you to the Cherokee Nation
 on this second trip? A No, sir, none at all.
 Q Well when did you return to the Cherokee Nation finally the
 third time? A It must have been in March sometime.
 Q The following March of '67? A Yes, sir.
 Q Well who came with you that time? A Well Sanders, old man
 Sanders, Mike Sanders, Peter Meigs, Billie Foreman, Tuck Sanders
 Huben Sanders.
 Q Well did Louis Whitmire come with you that time? A No, he
 didn't go that time.
 Q Where was he? A Fort Scott.
 Q Did Jennie come that time? A No, sir.
 Q Did this preacher, Joe Ross, come that time? A No, sir.
 Q Well did Sam Webber come that time? A No, Sam didn't go.
 Q Well how long after you come before Sam moved down here?
 A A couple of weeks I guess, maybe not quite so long, a short
 time.
 Q Do you remember the circumstances as you were leaving to come
 here about Eli Mackay going to jail for the murder of Dyer Hay-
 worth and there being considerable excitement when you passed through
 A Yes, sir.
 Q Were the Sanders boys along on that trip? A Yes, sir.
 Q And you say now that Sam Webber didn't bring his family when
 you came but a couple of weeks after? A Yes, sir.
 Q Well now when you did move your families down to where you lo-
 cated were there any colored people living in that part of the
 country? A None that I know of.
 Q Were there any on the Verdugo River or the Lightning Creek
 country or Snow Creek or Big Creek country? A None that I ever
 heard of or seen and I traveled a good deal through the country.
 Q Where did you do your trading when you first came from Samogot?
 A At Old Parker some.
 Q Now in order to go to Oswego you had to go from your place north
 up from Big Creek and Snow Creek country? A Yes, sir had to go
 north.
 Q There were no fields there in '66? A None at all.
 Q Wasn't no corn planted or crops raised that year? A No, sir.
 Q Did you plant some crops in '67? A Yes, sir. We had crops in
 '67.
 Q But before that none were put in by the colored people at all?
 A Not that I know of.
 Q Well do you know Ben Alberty? A Yes sir, I knew Ben before the
 war.
 Q Did you know him after the war? A I never seen him but
 once after the war that I know of.
 Q Well did you know before the war that he located on the south
 of Snow Creek? A Yes I know about the place.
 Q Well was he living there when you moved down here in March of
 '67? A No, sir.
 Q Well how long after that that Ben Alberty moved down in the
 Cherokee Nation? A It must have been sometime in '62, nearly '63
 somewhere along there.
 Q And you know he wasn't there when you first moved? A Yes, sir.
 He wasn't there.
 Q You know John Landrum? A Yes, sir. I know Jack Landrum.

- Q Well now when did Jack move his family down here? A Well I don't recollect just what time Jack did move there.
- Q It was after you moved there? A Yes, sir.
- Q He wasn't living there in '65? A No, sir.
- Q Did you know him in Kansas? A No, I never saw Jack in Kansas at all.
- Q Did he marry some relation of yours? A Yes a sister.
- Q Were they married in Kansas or in this country? A In Kansas.
- Q After the war? A Yes, sir.
- Q Were they married when you left there with your family?
- A Before that, before I left.
- Q But he didn't move down with his wife until after you came down?
- A No, sir.
- Q How long was it after you moved down the third time until Jack came? A It must have been in '68, somewhere along there when they come to where I lived.
- Q Well how far did they settle from you? A About three miles.
- Q Then there was no women or children come on any of these trips until you moved down in March '67? A No, sir not until we moved.
- Q You are the same man who is known as Aaron Whitmire who testified before the Chambers Court in '78? A Yes, sir.
- Q And Louis Whitmire and Moses Whitmire who were admitted to that court were your brothers? A Yes, sir.
- Q You at that time had for your witnesses Blue Alberty, William McCracken and others, did you not? A Yes, sir.
- Q You stated in your application at that time, and your witnesses stated for you the same facts that you stated here, to-wit; that you returned with your family and moved down here in the spring of '67? A Yes, sir.
- Q That is all true, is it not? A Yes, sir, that is the truth.
- Q Well now Sam Webber never moved down here until the spring of 1867? A No, sir.
- Q And young Sam didn't come with his father in August, 1866?
- A Yes he come in '66 with his father.
- Q Did he go back? A He went back, yes sir.
- Q Did he come back in December, 1866? A I don't recollect now whether young Sam was along in December or not.
- Q But you remember distinctly that he moved down here some two or three weeks after you did? A Yes, sir.
- Q How far did the Webbers settle from you when they come down in the spring of '67? A It is about six or seven miles from where I live.
- Q You know them well did you? A Yes, sir.
- Q Had you seen them in Kansas before the war and before you moved down here? A Yes, sir.
- Q About how far did they live from you in Kansas? A About 80 miles I think.
- Q Did you live in the town of Fort Scott? A Yes, sir, I worked there in town.
- Q Blacksmithing? A Yes, sir.
- Q I believe that you stated that you knew Dyer Haystack, what was his business? A He had a grocery store and sold groceries.
- Q Did you buy goods from him? A Yes, sir.

Q You stated that you knew Eli Mackey? A Yes, sir.
 Q When McCracken says he met you in December, 1866, in
 Kansas, before the territorial court, did you meet him that year?
 A Yes, sir.
 Q Were your brothers with you? A No, they wasn't with me then,
 left them on the Vermilion River, I met McCracken down at Fort
 Scott.
 Q Did you tell him where you were going? A Yes, sir.
 Q What did you say? A Told him I was going to Geingsawake.
 Q As I understand you you went to Geingsawake by the way of Table-
 Rock and came back by the way of Fort Gibson and then went to
 Kansas and got back to Kansas sometimes during Christmas week?
 A Yes, sir.
 Q Which was after Hayford was killed? A That was after
 Hayford was killed.

BY THE COMMISSION:

Q During the war Mr. Whitacre, you colored people settled in
 Fort Scott in the same neighborhood, did you? A Not exactly
 Q Well you know one another quite well? A Yes, we know one
 another.
 Q Persons from the territory who had gone out during the war?
 A Yes, sir.
 Q You were acquainted reasonably well were you not, with all of
 the parties who came down in that first crowd in August of '66?
 A Yes, sir.
 Q You knew all the parties in that crowd? A Yes, sir.
 Q Did you give all the names of those you saw mentioned in response
 to the witness's questions? A All I can remember, yes, sir.
 Q What was your purpose in making that first trip, Mrs. Whitacre
 to come to make home?
 Q You came down to build some houses? A Yes, sir.
 Q How did you go to the territory, wagons or horseback?
 A Came in wagons.
 Q What kind of teams did you have? A Some had mules, some
 horses and some oxen.
 Q Did you have a family at that time? A Yes, sir.
 Q A wife and some children? A Yes, sir.
 Q But you left them in Fort Scott? A Yes, sir.
 Q It was the understanding, was it, that you people were to
 come here and start some houses before going back to Kansas
 for your families? A Yes, sir.
 Q Who did your cooking on that trip? A Well the boys done the
 cooking.
 Q Did you bring along any women at that time to do the cooking?
 A No, sir.
 Q You are positive that there were no women at all in this
 crowd, are you? A No women that I recollect and no children.
 Q Well you would have remembered it, wouldn't you? A Yes,
 sir, I think so.
 Q It was a pretty wild country here at that time? A It was a
 wild country, yes, sir.
 Q Well now when you went down in December the second time for
 what purpose did you come? A We came down to work on our
 places.
 Q You left your family at Fort Scott on your second trip?
 A Yes, sir.
 Q Were there any women in that crowd who came down in '66?
 A No, sir.

Q There were none? A None.
Q How did you come the second trip? A In Wagons.
Q At that time, in the fall of '66, did you have some brothers and sisters? A Yes, sir.
Q All of your brothers came with you in the fall of '66?
A Hese, Louis, Dennis and Nelson.
Q Did you have some sisters living at that time? A Yes, sir.
Q What were their names? A The eldest was Mariah, Polly Ann, Mary Ellen.
Q Where did you leave them on your first and second trips to the Cherokee Nation? A I left Mariah at Lawrence and Polly Ann at Fort Scott with her brother Dennis and I don't know where Mary Ellen was.
Q Did your sister, Polly Ann, come with you when you came in the spring of '67? A No, she came with her brother Dennis.
Q How long after you came until Polly Ann came with Dennis.
A About two or three weeks as near as I can recollect.
Q That was the first time, was it Mr. Whitmire, that Polly Ann had been in the Cherokee Nation after the war, so far as you know? A Yes, sir, Polly Ann was a girl then staying with her brother Dennis, she wasn't of age, she was staying with Dennis and living with him.
Q And she didn't come with Dennis in the fall of '66? A No she didn't come with Dennis when he came before.
Q She stayed with his family in the town of Fort Scott, Kansas.
A Yes, sir.
Q Was little Sam Webber married when he come down here with his father in '66? A Yes, sir.
Q Where was his wife? A She was in Kansas.
Q Was there any woman come with little Sam Webber when he come on either of these trips in '66? A No, sir.
Q Well Mr. Whitmire, if any woman claims to have come down here in August or December, 1866 with this detachment of which you were a member, she is mistaken? A Yes, sir, she is mistaken.
Q You are positive that there were no women or children on either of these trips? A Yes, sir.
Q You were a grown man then weren't you? A Yes, sir.
Q And you are an intelligent fellow who would remember, wouldn't you, Mr. Whitmire? A Yes, sir.
Q And you remember that no women or children came with you on either of these trips? A No, sir, not one.
Q You have been acquainted with all these parties since your removal to the Cherokee Nation, have you Mr. Whitmire? A Yes, sir.
Q Known where they have lived and all about them? A Yes, sir.

BY MR. HASTINGS:

Q Wasn't it a fact that the Cherokee Court admitted all of you people who made this first and second trip here to the Cherokee Nation that applied to the Cherokee Court and introduced this testimony? A Yes, sir.
Q The Cherokee Nation or its authorities never did deny you did this? A No, sir, never did.

BY MR. BELGER:

Q Mr. Whitmire when you started from Fort Scott to the Cherokee Nation what road did you take? A I came right down by Indian Creek, what is called Lightning Creek, crossed over at

and went down by Smolpe and there we turned west and went over the head of Big Creek.

Q How far down Big Creek did you go and where did you settle?

A About eight or ten miles from the head to where I lived.

Q Did you go north of where Centralia now is? A No, sir west of where Centralia now is.

Q Well did you settle on Big Creek? A No, on Salt Creek, that is below Big Creek.

Q What direction did you settle from Novata? A Southeast, very high east.

Q Were you on Snow Creek, did you go down Snow Creek during that first trip? A No, sir.

Q Were you on Snow Creek? A I have been on Snow Creek.

Q How long were you there about four weeks? A No, not that long, not then.

Q Do you know whether or not anyone lived on Snow Creek? A No-one that I knew of.

Q How do you know if you wasn't there? A I was there, but I didn't see anybody on Snow Creek or anybody living there.

Q When in August, '66? A Yes, sir, after that.

Q Where were you going when you passed Snow Creek? A By old Pahlequah and different places there, Westralia.

Q Did you have to go by Snow Creek to go by Westralia? A Yes sir, it was an old trading post up there near old Pahlequah, east of Pahlequah on Pumpkin Creek.

Q How far was Westralia from where you was building those houses? A About twenty miles.

Q Which direction? A East.

Q Which side of Big Creek is Westralia on? A On the west side of Big Creek.

Q Which side of Snow Creek? A On the west side of Snow Creek.

Q Which side of the Verdegris? A On the east side of the Verdegris.

Q Where were you going when you went through Westralia? A Going to old Pahlequah, I had started to different places up there going to Westralia to trade sometimes during the past.

Q Then when you came to the Cherokee Nation that time you started at the head of Big Creek, went south down seven or eight miles where it runs into the Verdegris? A Yes sir, all the way from the head of Big Creek to where it runs into the Verdegris.

Q And settled on the southeast side of Big Creek where it turns around there into the Verdegris? A Yes, sir.

Q And there you built some houses? A Yes, sir, four houses was on Salt Creek about four miles from the mouth of Big Creek where it empties into the Verdegris.

Q When did you build there? A In '67.

Q Then where was it that this crowd that came in August of '66 built their houses? A They built them on Big Creek. It was about six or eight miles above where I lived.

Q Did you find your location where you built some houses in '66? A Yes, sir.

Q But you didn't erect any buildings there until '67? A No, sir.

Q Who built those houses in that first '66 settlement? A Sam Webster built one, old man Webber and old man Mike Sanders and old man Knigs.

Q Did you have to cut trees down and lay those logs out? A No, we cut the logs down and hewed them out.

Q What did you cover these houses with? A Boards.

Q Where did you get the lumber? A It wasn't lumber boards, it was pine boards.

Q You was there four weeks? A Yes, sir.

Q You came to the Cherokee Nation, built these houses and went back to Fort Scott, when did you go back to Fort Scott? A I don't recollect just exactly what time I did get back on the first trip, I don't recollect.

Q How long did you stay down in the Cherokee Nation when you were down here? A Two weeks that time.

Q The first time? A Yes, sir.

Q During those weeks you built several houses? A Yes, sir.

Q Visited around different settlements on Snow Creek? A There wasn't no settlements that we looked around, we saw the country.

Q What was your idea in looking at the country when you had located and built your houses? A We wanted to see if there was any place better.

Q Moved your houses would you? A The houses were just some logs and we could have got more if we had found a better location.

Q Well then you returned to the Cherokee Nation in December?

A Yes, sir.

Q What way did you come that time, what road? A We come pretty much the same road as we come the first time, by Lightning Creek.

Q Come down by Lightning Creek? A Yes, sir.

Q Come down by Big Creek? A Yes, sir, Big Creek.

Q Stayed right close to the river? A Come to where we started our buildings.

Q Did you stay down in the bottom along Big Creek? A Yes, sir, we come along the bottom.

Q Now Mr. Whitmire, in August when you folks come down there, did you stay in the bottoms or get out on the grass? A No, we didn't exactly stay in the bottoms, we would go out on the prairie and look around.

Q Wasn't there great high grass in the bottoms that time and made it difficult to travel through? A Yes, sir, there was grass there.

Q Wasn't the grass a little short on the prairie? A Yes, sir.

Q And for that reason you stayed out of the bottoms on the way down? A No, we went in the bottoms.

Q You didn't travel down in those bottoms all the time did you?

A No, sir.

Q You didn't travel in that big grass did you? A Yes, sir in places.

Q What did you have, wagons? A Wagons and teams.

Q What kind of horses did you have? A Some mules, some horses and some oxen.

Q But now what was your object in travelling in that high grass that big blue stem, instead of going on the prairie? A It was a good place, that was the object, if you was looking for a location you wouldn't go out on the prairie to hunt it.

Q Did you know where you was going when you left Fort Scott?

A Yes, sir.

Q You had been in that country before the war? A No, I never was in it until after the war.

Q Were there any other crowds of Freedmen that come out from Fort Scott after August 1865, before you came in December? A Why, I don't know that.

Q You don't know? A No, sir.

Q Did Bill McCracken and Levi Dougherty and these fellows live in that country in those days? A No, sir.

Q Did you ever see them there? A I never seen them there, Bill McCracken lived on Flat River and Eli lived on Pryor Creek.

Q Where did Blue Alberty live? A On Pryor Creek.

Q When you came down in December, 1866, how long did you remain in the Big Creek country? A Four days.

Q Then where did you go? A Fort Gibson. Up to Goingsnake and then to Tahlequah.

Q And returned the same way? A I returned the same way.

Q What time did you go to Fort Scott? A About Christmas time.

Q How were you traveling those times? A Teams.

Q How long did you stay in the Goingsnake neighborhood? A Two weeks and stopped at Tahlequah three or four days.

Q Did you stop any length of time at Fort Gibson? A Four days, I think, maybe longer, I don't know exactly, four days or a week.

Q You left Fort Scott in December? A Yes sir.

Q Returned sometime during Christmas holiday week, between Christmas and New Years? A Yes, sir.

Q Stayed four days in Indian Territory? A Three or four days in Gibson.

Q Stayed a couple of days in Tahlequah and Goingsnake? A A couple of weeks.

Q Stayed a couple of week in Tahlequah and Goingsnake and got back there about the first day of January? A I don't know whether the first day, I guess it was about the first.

BY MR. HASTINGS:

Q How long after you came the last time before Louis moved down, your brother Louis? A I guess it was two or three weeks, I don't recollect just exactly.

Q But even at the time you moved there were no families at that time living anywhere in the section of the country? A None at all, Old man Riley the closest that I know and I lived four miles from him.

Q In the Cherokee Nation? A Yes, sir.

Q Well I meant when I asked the question there were no colored people? A No.

Q You were the first people? A First ones that I know of.

Q And you came down some two weeks before the Webbers moved there. A Yes, sir.

Q And the Sanders family came with you? A Yes, sir. Sanders and Helge.

Q Did they live about Fort Scott? A Yes, sir. Sanders lived there and Helge lived there.

BY MR. BULGER:

Q Now Mr. Whitire when you came down in December did you go directly to your places that you had located in August? A Yes.

Q Didn't scout around over the country like you did in August? A No, sir.

Q Did you know of anybody who lived in the Snow Creek country or in the Big Creek country, except in that immediate neighborhood where you went? A I didn't know for certain.

Q Now when you were on this trip to Goingsnake, how did you go? A Wagon and two mules.

Q You say little Sam Webber came with you in August? A Yes, sir.
Q And he was married before this? A Yes, sir.
Q Did he return with you in December? A Yes, sir.

BY MR. HASTINGS:

Q Well you know that there was nobody living on Snow Creek after you moved down here in the spring of '67 because you had occasion to go back and forth up there? A I was up there from two to three weeks, had to go up to the little trading post at Osage and get provisions.

Q And you saw nobody living in that section of the country?

A No, sir.

Q Well now the first trip you came I judge you traveled considerably over all of this country hunting a suitable place to locate?

A Yes, sir.

Q Well neither of the Webbers or some of the rest never did mention having been back to that section of the country before that in August? A No, sir.

Q Some of them had been there before? A No, sir.

Q And there were no women on the first or second trips and no children? A No, sir.

BY MR. BOLGER:

Q When you came down in December did you stay down in the bottoms close to Big Creek? A Yes, sir right in the bottoms.

BY MR. HASTINGS:

Q You had been gone hunting a good deal at the time at that time had you? A It was all well or not.

Q And that made you go down in those bottoms in search of game?

A Yes, sir.

JAMES M. KEYS being first duly sworn testifies as follows:

BY MR. HASTINGS:

Q What is your name? A James M. Keys.

Q What is your age? A 62.

Q Are you a Cherokee citizen? A Yes, sir.

Q Where were you living when the war closed? A I was down south in the Choctaw Nation.

Q When did you return to the Cherokee Nation? A I came to the Cherokee Nation in June, 1866.

Q When did you first have occasion to visit Goshutee's place or that part of Goshutee's place known as the Snow Creek, Big Creek and Verdigris country? A In the winter of 1866, I had a large bunch of cattle near Claremore, Indian Territory and in the spring of 1866 we had lost some cattle and there had been another herd of cattle near there I had those cattle I had charge of and they drove them in the direction of Redman and I followed those cattle on the east side of the river to Coody's Bluff and crossed over at Coody's Bluff and stayed all night and in the morning came on the west side and followed up on the Verdigris River to Snow Creek and found the bunch of cattle I was following.

- Q How far from the Kansas line? A Well, I couldn't say, it was right near the Kansas line.
- Q They were near the Kansas line? A Yes, sir.
- Q Then you had occasion to go up to the Verdigris river from where it flows out of Kansas into the Cherokee Nation? A Yes, up as far as Snow Creek.
- Q How did you see any colored people along the Verdigris river and Snow Creek on that trip? A Well after leaving Coedys Bluff and going north on the east side of the river I didn't see a single house or habitation of any kind along the river, and I followed as close to the river as I could.
- Q You were in search of this bunch of cattle and you were looking to see if you could find any people? A Yes, it was a wild country then and I would have been glad to have seen any house.
- Q Were there any people living on Snow Creek at that time? A I didn't see a single house.
- Q Did you know where Ben Alberty claims to have settled? A Yes I know where the old place is.
- Q How far did you go from the old Ben Alberty place on this creek? A My best judgment is in the neighborhood of one mile.
- Q How far did you pass from it when you went up? A I went right up Snow Creek until I could see the cattle on the other side and followed right up the Verdigris river until I came to Snow Creek.
- Q And you could see no persons living in that section of the country? A No evidence of any habitation outside of the cattle down where the cattle were.
- Q And you could see them at once? A I saw them at once.
- Q How large a stream is Snow Creek? A Just a small stream.
- Q Just a little branch? A It is a little creek with some timber that runs out of the Verdigris and heads toward Kansas.
- Q Runs for a few miles in the Cherokee Nation? A Yes, sir.
- Q And you saw no colored people at all on that trip? A No evidence of any habitation or anything.
- Q And you never heard of any people who had seen the cattle? A No, about half way between Coedys Bluff and Snow Creek I met two men and they told me no-one lived there.
- Q They had seen this herd of cattle? A Yes they had seen these cattle and had been to a town in Kansas, Osage, I knew them, they were two Cherokees.
- Q Did you make any inquiries as to whether there was any settlement or not? A Yes, so I could stay all night.
- Q Do you think it would be possible for Ben Alberty to have lived where you knew he afterward settled without your seeing his house? If he had lived there when you went up Snow Creek in search of these cattle you would have seen his house? A I don't think so, if there had been any house I would have seen it.
- Q Which way did you go back? A I came back the way I went, along the river.
- Q Did you take charge of these cattle? A No sir, I left them in the herd, it was a long ways from where I was located and I left the cattle there until I came back.
- Q You didn't go across to Salt Creek where Aaron Whitmire lives? A No, sir, I followed the Verdigris circle.
- Q You left the Whitmire settlement to the east of you? A Yes some miles to the east.
- Q And what is the reason why you didn't see their settlement? A Yes, sir.

Q Did you follow Big Creek? A Not any distance.
Q Big Creek flows in the Verdegris river? A Yes, sir, a little north of Goodys Bluff.
Q Instead of following Big Creek you went up the Verdegris river?
A Yes, sir.
Q But when you struck where Snow Creek flows into the Verdegris you went up Snow Creek? A Yes a little, the cattle were between the river and Snow Creek on the north side and I followed the creek until I could see them on the other side and crossed.

BY MR. WOODRUFF:

Q When was this Mr. Keys that you made this trip in April or May?
A In April or May of 1868.
Q Where did you strike the Verdegris river when you started?
A I went near Clarence and went from there to Goodys Bluff the first day.
Q On the east side of the river? A Yes Goodys Bluff is on the east side of the river. I stayed all night with Lesney Riley.
Q Where did you cross the Verdegris River to go to the Snow Creek country? A I crossed it the next morning and went right up the river, there was considerable timber along the Verdegris at that time.
Q About the same as now? A Yes, sir.
Q How far out from Snow Creek did you stay when you went across the country for these cattle? A Not a great ways, I don't think it was more than, from a half a mile on the west side of Snow Creek.
Q Is there any timber on Snow Creek? A Yes, sir, there is a little timber along there.
Q You didn't go on the east side of Snow Creek until after you had crossed that time, you went right across? A We followed up on the east side and crossed over on the west side and went to the herd of cattle.
Q How far up did you go until you crossed? A Well I couldn't say, a mile and a half or such a distance.
Q Do you know whether or not there was anyone living down on the fork where Big Creek flows into the Verdegris? A I saw no evidence of any settlement or habitation and I paid pretty close attention and didn't see anyone living there.
Q But you don't know that there was no one living there? A I couldn't say positively.
Q How far east did you continue to go up Snow Creek? A Well I went right up the creek, followed right up the river until near the mouth of the creek and then went up the creek about a mile and a half.
Q Never did go any farther? A No, around there to the bunch of cattle the creek was running northeast at that point.
Q The cattle were on the northeast part of the prairie? A Yes, sir.

Q About how far? A One half mile or somewhere along there.
Q After you found these cattle did you return to Claremore? A I
just rode into the bunch of cattle and then I turned and went
back down the river.

-----000-----

The Cherokee Nation asks that the testimony taken of Aaron
Chittire and James H. Hays on this date be made a part of the
record in the case of Frank Love, F. D. 879; Sarah Robinson, F. D.
476; Martha Howell, F. D. 476; Polly A. Canard, F. D. 814.

CLERK

2008 JAN 1

Opal Griggs being first duly sworn states that as stenographer
to the Commission to the Five Civilized Tribes she reported
the above and foregoing proceedings had on the 23rd day of
December, 1904, and that the above is a full, true and correct
transcript of her stenographic notes thereof.

(Signed) Opal Griggs.

Subscribed and sworn to before me this 31st day of December, 1904.

(Notary)

(Signed) Charles H. Sawyer.
Notary Public.

Maggie Kennedy, being first duly sworn states that as
stenographer to the Commission to the Five Civilized Tribes, she
made the above and foregoing copy and that the same is a true and
correct copy of the original transcript.

Maggie Kennedy

Subscribed and sworn to before me this the 18 day of January,
1905.

Charles H. Sawyer
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment
of Jackson Davis, et al., as Cherokee Freedmen, consolidating
the applications of:

Jackson Davis et al.,	Cherokee Freedmen D 453,
Sallie Whitmire, et al.,	Cherokee Freedmen D 454,
John D. Davis,	Cherokee Freedmen D 455,
William Davis,	Cherokee freedmen D 456,
Ellen Bell, et al.,	Cherokee Freedmen D 457,
Hannie Bean,	Cherokee Freedmen D 740.

ORDER.

It is ordered that a copy of the testimony of Aaron
Whitmire, taken at Muskogee, Indian Territory, December 23, 1904,
in re application of Charlotte French, Cherokee Freedman No. D-
1012, be filed with and made a part of the record in the con-
solidated case of Jackson Davis, et al., Cherokee Freedmen No.
D-453 et al.

COMMISSION TO THE FIVE CIVILIZED TRIBES

Tame Dixby.

Commissioner

Dated at Muskogee, Indian Territory,

this

JAN 13 1905

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Jackson Davis, et al., as Cherokee Freedmen, consolidating the applications of:

Jackson Davis, et al.,	Cherokee Freedmen D 453,
Sallie Whitmire, et al.,	Cherokee Freedmen D 454,
John D. Davis,	Cherokee Freedmen D 455,
William Davis,	Cherokee Freedmen D 456,
Ellen Bell, et al.,	Cherokee Freedmen D 457,
Mannie Bean,	Cherokee Freedmen D 740.

--;--

D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by Jackson Davis for himself and wife, Caroline Davis; by Sallie Whitmire for herself and minor grandchildren, Helen, Sarah, John, Fodie, and Charlie Ward; by John D. Davis for himself and wife, Katie Davis, by intermarriage. As the application for the enrollment of Katie Davis as a Cherokee freedman by intermarriage has heretofore been disposed of, she will not be embraced in this decision; by William Davis for himself; by Ellen Bell for herself and minor children, John O., Nora, Charlie (Jr.), Carrie, Buddie H., Sarah and Julia Blackburn; and by Mannie Bean for himself. The testimony of Elizabeth Jane Morris taken October 14, 1901, at Vinita, Indian Territory, in re application of Belliah Howe, et al., for enrollment as Cherokee freedmen, case No. D 748, and of Aaron Whitmire and James M. Keys taken December 23, 1904, at Muskogee, Indian Territory, in re application of Charlotte French for enrollment as a Cherokee freedman, case No. D 1012, is filed herewith, and made a part of the record in this case.

THE EVIDENCE IN THIS CASE SHOWS: That the applicants, Jackson Davis, Caroline Davis, Sallie Whitmire, John D. Davis, William Davis and Ellen Bell, were the slaves of Cherokee citizens at the commencement of the Rebellion; and that they were taken

from the Cherokee Nation during said Rebellion and did not return thereto and establish a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to said Nation.

The evidence further shows that the minor applicants, Helen, Sarah, John, Jodie, and Charlie Ward, are the children of one Howard Ward, a non-citizen of the Cherokee Nation, and Julia Ward, nee Bean, deceased, who was the daughter of the applicant, Sallie Whitmire, and one Ben Bean, deceased, was born since 1866, and was a full sister of the applicant, Mannie Bean; and that the minor applicants, John O., Nora, Charlie Jr., Carrie, Buddie H., Sarah and Julia Blackburn (Blagburne), are children of the applicant, Ellen Bell, and one Charlie Blackburn (Blagburne) Sr. In Cherokee Freedman D. 275 (R 216), the said Charlie Blackburn (Blagburne) Sr., was denied enrollment as a Cherokee freedman, by the Commission, and on October 10, 1903, its action was approved by the Department.

The evidence further shows that the applicant, Mannie Bean, is a son of the applicant, Sallie Whitmire, and one Ben Bean, deceased, was born since 1866, has been given ample opportunity, but has failed to appear before the Commission and establish whether or not he possesses any rights to enrollment as a Cherokee freedman through his said father. Consequently his application is brought within the rulings of the Department in the cases of Eliza Bryant et al., (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan, et al., (I.T.D. 1470-04), Samantha Chambers, (I.T.D. 2296-04), Ed Williams, (I.T.D. 4230-04), and Martha Albert et al., (I.T.D. 4732-04).

It is further shown that when the applicant, Mannie Bean, was about ten or eleven years old, his father, Ben Bean, since deceased, taking with him his family, removed from the Cherokee Nation, and for fifteen years continuously lived outside the limits of the Indian Territory, and that during said period said applicant, Mannie Bean, remained a member of and resided with, his father's family.

The evidence further indicates that subsequent to the family's removal from the Cherokee Nation, the said Julia Ward, nee Bean, now deceased, became the wife of one Howard Ward, a non-citizen of the Cherokee Nation, and that for a number of years they continuously resided in the State of Missouri, where their four oldest children were born, the youngest of which was three years old in 1901.

In view of these facts it is considered that even though the said Ben Bean, deceased, Julia Ward, nee Bean, deceased, and the said applicant, Mannie Bean, may have been at one time freedmen citizens of the Cherokee Nation, they have since forfeited their citizenship in said Nation, under Section II, Article I, Cherokee Constitution, which, in part, provides:

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease;"

None of the applicants herein nor the said Ben Bean, deceased, or Julia Ward, deceased, can be identified on the Cherokee authenticated tribal roll of 1880, or the Cherokee census roll of 1896.

In re testimony as to return to the Cherokee Nation after the close of the war, of Jackson Davis and family, and Caroline Davis:

The applicant, Jackson Davis, experiences some difficulty in identifying his place of residence in the Cherokee Nation prior to his locating on Grand River, opposite the mouth of Cabin Creek. He testifies that he "Hammered" around on Big Creek and Rock Creek, for sometime before locating as above indicated. He further testifies that "he came back in '66", and introduces Sam Webber to prove this statement. Sam Webber testifies that they came to the Cherokee Nation together "in the fall of 1865", and that he left Jackson Davis on Horse Creek, while he (Sam), (1) "Went from Horse Creek on to Fort Gibson". (2) "Went from Horse Creek on to Coody's Bluff." (3) "Went from Horse Creek on to Fort Gibson." As Coody's Bluff and Fort Gibson are some eighty miles distant apart, and lie in different directions from Horse Creek, there appears little reason for this witness's confusion, had this trip to the Cherokee Nation, in fact, been made. There is little doubt but that the witness, Sam Webber, returned to the Cherokee Nation within the time specified in the Whitmire decree, and it is equally certain that his first trip to the Cherokee Nation after the Rebellion was made not earlier than August, 1866. He probably made a second trip from Kansas to the Cherokee Nation during the latter part of 1866, and a third some time in the spring of 1867. The testimony of numerous witnesses, interested and disinterested, who have testified before the Commission at different times and places, establish the above statement as practically correct.

The applicant, Jackson Davis, evidently intended to establish his return as in August or December of 1866, but in this his witness failed him, as he (Sam Webber), in connection with his testimony above indicated, further testifies that they did not return together in 1866, and that he did not see Jackson Davis during the year 1866, until "along late in the fall of '66, when they (Jackson Davis and family) came where we were over there" (on Big Creek). On behalf of the Cherokee Nation, Walter A. West testifies that Jackson Davis and family and one Tom Mayfield and family, came to the Cherokee Nation in February, 1869, and that Jackson Davis and family located "on the east side of the (Grand) river, near the mouth of Cabin Creek." This same witness, in the case of Thomas Mayfield, Cherokee Freedmen D 200, on behalf of the Cherokee Nation, testified to practically the same facts, and to the effect that Thomas Mayfield located on the east side of Grand river, opposite the mouth of Cabin Creek, is corroborated by Filmore Hicks, a witness for the said Thomas Mayfield. The Commission found, in Cherokee Freedmen D. 200, that the said Thomas Mayfield did not return to the Cherokee Nation within the time specified in the Whitmire decree, and on October 13, 1904, its finding was approved by the Department. Disinterested witnesses testify that Jackson Davis and family did not leave Kansas prior

to the fall of 1867, and probably later, and this, in connection with the testimony of Walter A. West, together with the finding of the Commission on Cherokee Citizenship in 1871, that "Jack Davis" did not return in time, form a combination of circumstances that satisfactorily show that Jackson Davis and family did not comply with the treaty stipulations of 1866, relative to the return of freedmen to the Cherokee Nation.

The applicant, Caroline Davis, testified that after the close of the rebellion, she returned to the Cherokee Nation in company with "Henry Herrill" (merrill), and others. In Cherokee Freedmen D 788 it was found by the Commission that the said Henry Merrill did not return to the Cherokee Nation, after the close of the rebellion, within the time specified in the Whitmire decree, and on October 18, 1904, its action was approved by the Department. She further testifies that upon her return in the summer of 1866, she stayed at Fort Gibson with Solomon Foster and family. The testimony of Aaron Whitmire taken in re application of Charlotte French, Cherokee Freedman D 1012, and which is made a part of the record in this case, shows that Solomon Foster did not return to the Cherokee Nation before December, 1866. Lewis Whitmire, in behalf of the applicant, Caroline Davis, testifies that after the war he first saw her during the winter of '66, at her mother's home near Tahlequah. The above indicated testimony of Aaron Whitmire shows that his brother, the said Lewis Whitmire, came to the Cherokee Nation in August, 1866, stayed a few weeks in the immediate vicinity of Big Creek, and then returned to Kansas; that he came to the Big Creek country again in December, 1866, remained a few days in that vicinity, and a second time returned to Kansas, and did not again visit the Cherokee Nation until some time after the month of March, 1867. As the Big Creek country is some seventy-five or eighty miles northwest from Tahlequah, it is quite evident that Lewis Whitmire was not in the vicinity of Tahlequah prior to April or May, 1867.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), Jackson Davis, Caroline Davis, Sallie Whitmire, Helen Ward, Sarah Ward, John Ward, Jodie Ward, Charlie Ward, John D. Davis, William Davis, Ellen Bell, John O. Blackburn, Nora Blackburn, Charlie Blackburn Jr., Carrie Blackburn, Buddie H. Blackburn, Sarah Blackburn, Julia Blackburn and Mannie Bean, are not entitled to enrollment as Cherokee Freedmen, and their applications for enrollment as such are accordingly denied.

(Signed) Tams Bixby

Dated at Muskogee, Indian Territory,
this Sep 29 1905

20

20454

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

RECEIVED

COMMISSIONERS
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Sallie Whitmire et al for en-
rollment as Freedmen of the Cherokee Nation, one copy of the ori-
ginal testimony of May 31st, 1901.

Melville Smith

Attorney for Applicants.

Cherokee F. #D454.

N.F.D. 454

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
day of..... A. D. 1901

Given under my hand this
day of..... A. D. 1901.

Marshal for the Cherokee Nation.

I, the undersigned Attorney for the
within named applicant, hereby accept
service of the within notice on this the

day of SEP 18 1901.
Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY, s. s.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the day of..... A. D. 1901

Subscribed and sworn to before me
this day of..... A. D. 1901.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

SEP 20 1901

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of
for enrollment as a Cherokee citizen:

Case No. D. ⁴⁵⁴

To

Sallie Whitmore or Mellett & Smith attys

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of *Vinita* Indian Territory, on *Oct 11, 1901* or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this *Sept 14, 1901*

W. W. Hastings
Attorneys for the Cherokee Nation.

Cherokee
F B-454

COPY.

Muskogee, Indian Territory, September 30, 1905.

Sallie Whitacre,

Mayden, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting, among others, the application for the enrollment of yourself and grand-children, Helen, Sarah, John, Jodie, and Charley Ward, as Cherokee freedmen. Your attorney, Edgar Smith, Vinita, Indian Territory, has heretofore been furnished with a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The Department's action will be made known to you as soon as this office is informed of the same.

Respectfully,

WONDER

Tama Bixby.

Commissioner.

Incl. GL-57.
GHL

Register

Cherokee
Y D-444 et al.

COPY.

Muskogee, Indian Territory, September 20, 1906.

Edgar Smith,

Attorney for Sallie Whitacre et al.,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 20, 1906, rejecting, among others, the applications for the enrollment of Sallie Whitacre, Ellen, Sarah, John, Fannie, and Charley Ward, John D. Davis, William Davis, Ellen Bell, and John C., Mary, Charley Jr., Carrie, Fannie E., Sarah, and Julia Blackburn, as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The Department's action will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED)

Tame Bixby
Commissioner.

Incl. 61-66.
GIL

REGISTER.

Cherokee
D-455 et al.

COPY.

Madame, Indian Territory, September 26, 1905.

Hall, Hastings & Beverport,

Attorneys for the Cherokee Nation,

Madame, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 19, 1905, rejecting the applications for the enrollment as Cherokee freedmen of the applicants referred in the consolidated applications of Jackson Davis et al., Cherokee Freedmen D-455 et al.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The Department's action will be made known to you as soon as this office is advised of the same.

Respectfully,

WCHED.

Tamie Bixby.

Commissioner.

Incl. CH-44.
CHL

COPY.

Madagascar, Indian Territory, September 20, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of Jackson and Caroline Davis; Nellie Whitacre, and her grand-children, Helen, Sarah, John, Jodie, and Charlie Hart; John R. Davis; William Davis; Ellen Bell and her children, John S., Bern, Charlie, Gerrie, Eddie R., Sarah, and Julia Blackburn; and Mamie Dean, as Cherokee freedmen, including the decision of the Commissioner to the Five Civilized Tribes, dated September 20, 1906, rejecting said applications.

Respectfully,

W. H. H. H.

Tama Bixby.

Commissioner.

Incl. 61-63.

CHL

Through the
Commissioner of Indian Affairs

Muskogee, Indian Territory, August 22, 1906.

The Honorable,

The Secretary of the Interior,

Sir:

There is transmitted herewith a reply of the Cherokee Nation to a motion for a rehearing in the Cherokee freedman case of Jackson Davis, et al, D. 488, et al. Copy of this reply is shown to have been served on Starr and Patten, Vinita, Indian Territory, attorneys for applicants. The records of this office fail to show that a motion for a rehearing in this case has been filed with it.

The decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1906, rejecting the applicants embraced in the Cherokee freedman enrollment case of Jackson Davis, et al, was, together with the record of proceedings had in the case, forwarded to the Department on September 30, 1906.

Respectfully,

Encl. H.A. 22-2,

Through the Commissioner
of Indian Affairs.

Commissioner.

D. C. 22175-1904.

(COPY)

J. F. Jr.

DEPARTMENT OF THE INTERIOR

LEE

WASHINGTON.

I. T. D. 22175-1904.

November 20, 1904.

12200- *
12220- *
10017-1904.
27176- *

L. R. S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On October 13, 1903 (Land 78748), the Indian Office transmitted your report dated September 20, 1903, forwarding the record in the matter of the applications for enrollment as Cherokee freedmen by Jackson Davis for himself and his wife, Caroline Davis; by Nellie Whitacre for herself and her minor grandchildren, Helen, Sarah, John, Jodie, and Charlie Ward; by John D. Davis for himself; by Ellen Bell for herself and her minor children, John O., Nora, Charlie, Jr., Carrie, Bessie M., Sarah, and Julia Blackburn, and by Nannie Dean for herself. Accompanying this record is your decision dated September 20, 1903, adverse to all of the applicants.

The Indian Office concurs in your recommendation. A copy of its letter is inclosed.

On September 7, 1903, the attorneys for the applicants filed a motion for review in this case. This motion is considered to be without merit and is hereby denied.

On November 4, 1905, the attorneys for the applicants protested against your decision adverse to these applicants.

On November 15, 1905, the Indian Office transmitted a communication dated November 3, 1905, from the attorneys for the nation, filing argument in reply to the protest of the applicants' attorney.

On August 10, 1906, the attorneys for the applicants filed a motion for rehearing in order that further testimony might be introduced in behalf of the applicants.

On September 11, 1906, the Indian Office transmitted your letter dated August 22, 1906, forwarding the reply of the nation to the motion for rehearing.

The Department has considered the motion for rehearing. The supporting affidavits show no new evidence which by diligent search could not have been discovered prior to the closing of the case. The evidence desired to be introduced appears to be merely cumulative, and being negative in character would be ineffective.

Said motion is hereby denied.

An examination of the testimony in the case discloses no error in your decision.

The preponderance of evidence establishes the fact that the principal applicant did not remove to and take up his residence in the Cherokee Nation as contemplated by the treaty of 1866 and the act of Congress approved April 26, 1906 (34

Stat., 1871). This, together with the presumption raised by the decision of the Supreme Court of the Cherokee Nation, dated June 8, 1871, adverse to the principal applicant in this case, is decisive.

Your decision is affirmed.

The record, motion and accompanying papers have been returned for the files of the Indian Office.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

1 inc. 12 inclosures to I.O.

Through the Commissioner
of Indian Affairs.

Cherokee Freedmen
D 454

Muskogee, Indian Territory, December 12, 1906

Sallie Whitmire,

Hayden, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated September 29, 1905, rejecting, among others, your application for the enrollment of yourself and your grandchildren, Helen, Sarah, John, Jodie and Charley ward, as Cherokee Freedmen, was affirmed by the Department on November 30, 1906, and a motion for review of said case filed by your attorneys September 7, 1906, and a motion for rehearing filed August 10, 1906, were denied by the Department on the same date.

Respectfully,

L M B

Commissioner

Cherokee Freedmen
D 435 et al.

Washago, Indian Territory, December 12, 1906.

Wine & Bulger,

Attorneys for Jackson Davis et al.,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated September 20, 1906, rejecting the applications for enrollment of Jackson Davis, et al. as Cherokee freedmen, was affirmed by the Department on November 30, 1906. Your motions for review of said cases filed September 7, 1906, and for rehearing filed August 10, 1906, were denied by the Department on the same date.

For your information a copy of the Departmental decision referred to is herewith enclosed.

Respectfully,

Encl. 3-55
L.M.B.

Commissioner.

Cherokee Freedmen
D 488 et al.

Muskogee, Indian Territory, December 12, 1906.

V. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting the applications for enrollment of Jackson Davis, et al. as Cherokee freedmen, was affirmed by the Department, November 30, 1906. A motion for review in said cases filed by attorneys for applicants on September 7, 1906, and a motion for rehearing filed on August 10, 1906, were denied by the Department on the same date.

For your information a copy of the Departmental decision referred to is herewith enclosed.

Respectfully,

Encl. B-54
L.W.B.

Commissioner.

THE UNITED STATES
OF AMERICA
1919

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Sallie Whitmire,

Hayden, I.T.

Cherokee F-D-454

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

VB. J.D. 484

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 31 1901


ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 31st 1901
 Post Office Spartanburg, S.C.
 District XObo

1. Name _____ Age _____
 Owner's name _____ Citizenship _____
 Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____
 Mother _____ Citizenship _____

2. Name of wife Allie 18 last name Age 52
 Owner's name Margaret French Citizenship Cherokee
 Year _____ Page _____ No. _____ District _____

Parents:

Father Jack Davis Citizenship Cherokee
 Mother Julia Citizenship _____

Names of Children:

No.	Name	Year	Page	No.	Dist.
3.	<u>Henry Ward</u>				10
4.	<u>Sarah</u>				9
5.	<u>John</u>				5
6.	<u>Bobie</u>				3
7.	<u>Charley</u>				2
8.					
9.					
10.					
11.					
12.					

Application made by No. 1

Stenographer Rothmanberger

No. on Walter Roll Page No

Birth certificates required for children

Ref to WH 53

Represented by Mellette & Smith, Vinita, S.C.

**END
OF
REEL**

